

**PARKS, SPORTS & CULTURAL AFFAIRS COMMITTEE
of the
Suffolk County Legislature**

Minutes

A regular meeting of the Parks, Sports & Cultural Affairs Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, 11787 on **September 12, 2002.**

Members Present:

Legislator Ginnay Fields - Chairperson
Legislator Cameron Alden - Vice-Chair
Legislator Angie Carpenter
Legislator Brian Foley
Legislator William Lindsay

Also in Attendance:

Paul Sabatino - Counsel to the Legislature
Mary Skiber - Aide to Legislator Fields
Clark Gavin - Aide to Presiding Officer Tonna
Ray Zaccaro - Aide to Legislator Bishop
Nannette Essel - Aide to Legislator Fisher
Fred Pollert - Director/Budget Review Office
Lance Reinheimer - Budget Review Office
Kim Brandeau - Budget Review Office
Sean Clancy - Budget Analyst/Budget Review Office
Nicole DeAngelo - County Executive Office/Intergovernmental Relations
Peter Scully - Commissioner/Suffolk County Parks Department
Steve Raptoulis - Chief Deputy Commissioner/SC Parks Department
Judith Gordon - Assistant Deputy Commissioner/SC Parks Department
Greg Lauri - Director/Division of Sports & Recreation - Parks Dept
Denise Speizio - Suffolk County Parks Department
Steve Gittelman - President/Board of Trustees/SC Vanderbilt Museum
Lance Mallamo - Executive Director/Suffolk County Vanderbilt Museum
Michael Iadevaia - CPA Representing Suffolk County Vanderbilt Museum
Laura Schwanof - Senior Ecologist/EEA Incorporated
Jeff Seeman - President/Coastal Environmental Corporation
Michael Errico - MJ Designs
Phil DiMarin - Marks, Penath & Shron
Stephanie Liakakos - Suffolk Life
Chuck Stein - Nominee/SC Alternative Parks Funding Committee
Jack Finkenberg - Nominee/SC Alternative Parks Funding Committee
All Other Interested Parties

Minutes Taken By:

Alison Mahoney - Court Stenographer

(*The meeting was called to order at 1:08 P.M.*)

CHAIRPERSON FIELDS:

We will start with the Pledge of Allegiance led by Legislator Brian Foley.

Salutation

Thank you. We have one card so I'm going to just do the card first and then go to some discussion. So Bill Lunt, can you come up forward, please?

MR. LUNT:

Good afternoon. I apologize for my attire, this is the first experience I've had with the process. My name is Bill Lunt, I'm a County resident for a little over a half of century. I've been using the Parks Department for -- you know, all the parks in the County for that much and all in all, for the amount of money that they have and the man power that they have, they're doing a great job.

My concern today, though, is the trap and skeet range and I just wanted to say before you that I really think it's important to keep it open. It generates money and income and employment for people in the area and it also -- it gives you a controlled, safe environment to do a shooting sport and I just wanted to give you my two cents and let you know how I feel about that. And thank you for allowing me this three minutes.

CHAIRPERSON FIELDS:

Thank you very much. We will have a bill that we'll be looking at today to try to do exactly that, so thank you for coming.

The first discussion I think that we will go to immediately is the Vanderbilt Museum. So if we could have those who are ready to speak come up, and just make sure that you have a microphone close enough to you that the stenographer can hear everything.

MR. MALLAMO:

Good afternoon, Legislator Fields, Members of the Legislative Parks Committee. My name is Lance Mallamo, I'm the Executive Director of the Suffolk County Vanderbilt Museum.

CHAIRPERSON FIELDS:

Lance, talk a little closer or a little louder.

MR. MALLAMO:

Okay. I'm Executive Director of the Suffolk county Vanderbilt Museum. We are here at your request, we had discussed having this meeting several months ago and I think, Legislator Fields, I had indicated to you I would love to have had it at the museum so you could see first hand what's happening up there. I have prepared a video on the capital projects that we have, it's as brief as I could make it but it's a 20 minute video, but I do have it available, I can leave it with you and you can look at it at your leisure.

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CHAIRPERSON FIELDS:

Maybe what we can do either is to have copies of it or I'll take one, look at it today and then give it to one of the others and all the Parks Committee members will have seen it.

MR. MALLAMO:

That will be fine, or we could make a copy for all of you. I was planning on narrating it myself here because it is isn't narrated, maybe if I did take it back I could narrate it and get it back to you and a copy to each of you. It looks like you have a very hefty agenda.

MR. GITTELMAN:

My name is Steve Gittelman, I'm President of the Board of Trustees. Good afternoon, thank you for inviting us. Actually we're here because you had questions and perhaps we can respond to your questions?

CHAIRPERSON FIELDS:

I think one of the questions that I had quite a while back was do you have a business plan?

MR. GITTELMAN:

We always submit a budget to the County for approval, it's an annual thing, we've been doing it for as long as I can remember.

MR. MALLAMO:

Yes, we do have an annual business plan that we submit each year.

Our

accountant is here; do you have a copy of our business plan with you?

MR. IADEVAIA:

No, I don't have it on me but we can provide it.

CHAIRPERSON FIELDS:

That was one of the questions that we had asked a couple of months ago, was that there are some difficulties with revenues and trying to

get as much money as you need to operate the Vanderbilt and --

MR. MALLAMO:

Well, our business plan for this year does assume the revenues that are outlined in the budget will be forthcoming, so that is the plan that is prepared right now. I believe we submitted that to Budget Review earlier this year, you usually get that in January, don't you? That's a copy of it there? Lance

MR. REINHEIMER:

That's your monthly report.

MR. MALLAMO:

That's our Treasurer's report, but we do have a business plan as well.

MR. GITTELMAN:

It is part of the County budget.

CHAIRPERSON FIELDS:

Excuse me?

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MR. GITTELMAN:

It is part of the County budget.

CHAIRPERSON FIELDS:

Your accountant is raising his hand.

MR. IADEVAIA:

On that report you should be able to have the business plan --

CHAIRPERSON FIELDS:

You --

MR. REINHEIMER:

That's what I'm saying.

CHAIRPERSON FIELDS:

Unless you're giving them instructions --

MR. MALLAMO:

Yes, yes, on this copy the business plan is indicated right here in that column. Could we make copies of this?

MR. REINHEIMER:

You can have that.

MR. GITTELMAN:

You mentioned --

CHAIRPERSON FIELDS:

I think that what I meant by a business plan was to put something together to say these are what we have in the park, these are what we're aiming to improve and we're spending, you know, a certain amount

on improving them, these are what we have to maintain and we're going

to spend a certain amount maintaining them. These are, you know, our fees that we charge, these are what we get from our schools, this is what we anticipate. I know you've talked about -- we talked a couple of years about the {GODO} projector, we've talked about the dinosaur exhibition, we've talked about many things. And then to add on top of all of that we recently purchased The Normandy Manor and I doubt very much that your business plan is in whatever it is that you just passed around showing what your expenses are going to be for Normandy

Manor,

or perhaps I'm wrong; are they?

MR. MALLAMO:

No, they were included for this year. Yes, when we did the budget this year they were included.

CHAIRPERSON FIELDS:

So you have some item in there that tells anyone who is looking exactly what you have to pay for heating and lighting and everything else?

MR. MALLAMO:

Yes, on that sheet it would be lumped together.

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CHAIRPERSON FIELDS:

Where is that sheet?

MR. MALLAMO:

I think they took it to make copies.

CHAIRPERSON FIELDS:

Oh, okay.

MR. MALLAMO:

It would be lumped together for all the expenses of all the buildings at the museum. But when we did acquire or presented the plan to acquire Normandy Manor, I did submit to the Legislature an itemized list for what our expenses and revenues were projected to be and those have been included in the budget; I think the total expense was about \$16,000.

MR. GITTELMAN:

Right. We're not anticipating a large carrying cost on Normandy Manor this year. We don't know --

CHAIRPERSON FIELDS:

Did you have an engineering study performed before we purchased it?

MR. MALLAMO:

No, we did not.

CHAIRPERSON FIELDS:

So do you know what kind of condition it's in and what is going to be needed to --

MR. MALLAMO:

Yes, we have reviewed it with DPW. I think -- can you --

MR. GITTELMAN:

That would be John { Vanvulsa}.

MR. MALLAMO:

John { Vanvulsa} from DPW has gone through the house with me, I do have

it included in the video. It's in excellent condition and it really needs minor improvements, we have to reverse some doors and install exit signs and install a security system. Ultimately there will be public bathrooms needed in the facility, but we don't anticipate any major capital expense.

MR. GITTELMAN:

The building appears to be in superb condition.

CHAIRPERSON FIELDS:

As far as school programs, are you at your limit in how many you can accommodate or do you have room for more?

MR. MALLAMO:

Well, what we've -- what we are working right now, we have just set up a new dinosaur exhibit. We've added two new school programs associated with that exhibit and by relocating some staff later in the year to

the second floor of Normandy Manor we can relocate their offices, we'll be able to develop one additional classroom in the planetarium. So by using the exhibit space itself and this new classroom area, we'll in effect be able to handle two new grades.

CHAIRPERSON FIELDS:

So the dinosaurs are already in some place now?

MR. MALLAMO:

Yes. Yes, they are.

CHAIRPERSON FIELDS:

Have you started the exhibit yet --

MR. MALLAMO:

Yes.

CHAIRPERSON FIELDS:

-- or opening it up?

MR. GITTELMAN:

We haven't had an official grand opening because the weather has been extremely hot and so we waited a bit.

LEG. LINDSAY:

Question.

CHAIRPERSON FIELDS:

Yes, Legislator Lindsay.

LEG. LINDSAY:

Just a curiosity, fellas. Looking at this Treasurer's report, you's made a lot of money in April; why was that?

MR. MALLAMO:

April and -- I'm sorry.

MR. GITTELMAN:

Well, first of all, we are -- April is an important month for us but we are experiencing record levels in our education programs. This is the best year ever in terms of the number of children and the revenue from education. What were you going to say, Lance?

MR. MALLAMO:

I was going to also remark, April and February are actually two of our best months. I think there's a misconception that the summer is our busy time. The week of the February President's week break is our biggest week of the entire year and the spring break week would be the second biggest week, so we do get --

LEG. LINDSAY:

But you lost \$35,000 in February and you made 187,000 in April, it just jumps out.

MR. MALLAMO:

Well, you're looking at bottom line --

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LEG. LINDSAY:

What, Fred?

MR. POLLERT:

Just to clarify, the large increase in April is on the endowment line. If you look at the endowment line, it increased from \$55,000 to \$262,000.

LEG. LINDSAY:

Okay, I missed that.

MR. POLLERT:

So that that was a catch-up on A distribution from the endowment, that's the reason that you had the large spike.

LEG. LINDSAY:

That's the answer to my question.

CHAIRPERSON FIELDS:

So if you are looking at all these columns and you see deficiencies, how does a business plan address those deficiencies? To me, this isn't exactly what I had in mind as a business plan, and it's actually labeled a Treasurer Report, it's not really --

MR. MALLAMO:

Yes. Well, our business plan --

CHAIRPERSON FIELDS:

I'm not quite sure that you could say --

MR. MALLAMO:

-- is the next to the last column on that. We do have another document that looks just like this labeled business plan which is more specific. I was under the impression today we were going to be talking about the capital budget and the status of the endowment, but I believe I can answer any questions that you might have.

LEG. CARPENTER:

I have a question.

CHAIRPERSON FIELDS:

Okay. Who was first?

LEG. ALDEN:

Angie.

CHAIRPERSON FIELDS:
Legislator Carpenter and then Legislator Alden.

LEG. CARPENTER:
I'm just looking at this. When you say business plan, are you actually saying that this is the amount budgeted for the year for that particular line? That you budgeted that you would have \$695,000 in the admissions line --

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MR. MALLAMO:
Yes.

LEG. CARPENTER:
-- and that actually year-end it was 715.

MR. MALLAMO:
Well, this is what we're projecting at the year-end. We're now projecting that our admissions will be up.

LEG. CARPENTER:
Yeah because you're only into September.

MR. GITTELMAN:
Right, correct.

MR. MALLAMO:
Our admissions are significantly higher than they were at this point last year.

LEG. CARPENTER:
So this report actually is through July 31, the rest is what's been budgeted.

MR. MALLAMO:
That's right.

LEG. CARPENTER:
Okay. So that business plan is really not the appropriate heading for that column as far as I'm concerned. Is this not really meant to be --

MR. GITTELMAN:
This is an annual projection.

LEG. CARPENTER:

-- amount budgeted? Okay, it's not a business plan. A business plan is more of a narrative that talks about what your plans are; correct, am I --

MR. GITTELMAN:

That would almost sound like a five year plan to me, you know, something that -- which is a healthy exercise, as you well know, Angie.

LEG. CARPENTER:

Right. And I think what the Chairman was asking was for your business plan and is there one?

MR. GITTELMAN:

Well, we have a five year plan.

MR. MALLAMO:

We do have a five year plan I believe we had submitted to the Legislature about a year-and-a-half ago, a five year plan .

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MR. GITTELMAN:

Which we would be glad to take out and revisit and resubmit if you would like.

CHAIRPERSON FIELDS:

I think that, you know, we've had discussion, not just this committee, but it's been out on the floor that some Legislators are concerned that there is a lot of money that's put into the Vanderbilt and they're not sure that it's being -- you know, that there's a business plan that can take care of what the revenues are, what the expenditures are and how you want to address those. And when we have interviewed people to be on your board, your trustees, we have asked what they have in mind and they have talked about fund-raisers and innovative programs where they could increase the amount of money that the Vanderbilt takes in. So when we spoke on the -- at one of the committee meetings to ask that you come with a business plan because of the endowment, because of the stock market, because of Enron and because of all the other things, we -- I expected I guess not a list of numbers but a plan; what are you looking at, how are you looking at it, what do you expect to try to do to improve, you know. This doesn't tell me -- it really doesn't -- you know, I don't know that it tells anybody anything except some --

MR. GITTELMAN:

We have a --

LEG. ALDEN:

It tells me some stuff. I have some questions.

CHAIRPERSON FIELDS:

Okay. Well, let me go over to Legislator Alden because he was next.

LEG. ALDEN:

As long as we have this Treasurer's Report before us, I just have a couple of quick questions. In May, I think it's May, why do you have a spike in salaries and wages?

MR. MALLAMO:

It's a three payroll month.

LEG. ALDEN:

What?

CHAIRPERSON FIELDS:

May and October.

MR. MALLAMO:

A three payroll month, there are three payrolls that go out in the month of May. October is also a three payroll month.

LEG. ALDEN:

Okay. And under benefits, why isn't that more constant? It goes all over the place.

MR. MALLAMO:

Our benefit package in some areas mirrors the County's, in others it

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doesn't. If an employee does not take the medical benefit we pay them quarterly an amount of money that is less than the benefit would be but they get a -- they opt out of the insurance benefit. We also have a life insurance package that we pay for and retirement which is separate from the County and that may not be on a biweekly basis.

LEG. ALDEN:

Now that opt out, is that part of a collective bargaining agreement?

MR. MALLAMO:

No.

LEG. ALDEN:

That's just something you offer as an incentive to come work for you?

MR. GITTELMAN:

Yes.

LEG. ALDEN:

Okay.

CHAIRPERSON FIELDS:

Okay. Well, let's go a little bit to the Capital Program. There was some discussion a while back too where you were not communicating with DPW and there were some problems with you doing work that DPW had no knowledge of you attempting to do and I think we had mentioned at one of the meetings that we thought maybe the communication could be better between you and DPW. Maybe you could answer a little bit about how you're --

MR. MALLAMO:

Certainly, I'd be happy to. And I do have Keith Larson here who is the architect assigned to the Vanderbilt from DPW. The Budget Review Report indicated that there were two primary issues, and if there are others I would be interested in hearing what they are, one involving the construction of the dinosaur building, the temporary building behind the planetarium. This is a project we have been working on for many months. Before we could do anything there, there was an oil tank at the location where this building was to go and we had to work with DPW and the Health Department to come up with a plan to either remove or abandon or relocate this oil tank. That was done and I had my Director of Operations Bill {Deek} here in February, April?

UNKNOWN AUDIENCE MEMBER:

February.

MR. MALLAMO:

February of this year. In March, after we had that plan in place, we submitted that request for the Council on Environmental Quality to review and it ultimately was approved by the Legislature I believe in April of this year and the building was erected in late June. So I don't feel that there was a miscommunication. I know we had discussed this thoroughly with DPW at the time regarding the relocation of the oil tank and the need, why we were doing this, because we were actually converting the property from oil to natural gas heat, so all

of that had to be worked out. How were we going to be heating the planetarium if we did not have this tank in place?

Subsequent to the building being erected, DPW did notify me that we required a building permit for the structure. Which to be very honest with you, I worked in the Parks Department for 25 years and it was always my understanding we were exempt and I understand previously we were exempt but that the rule has changed and that the County must now give building permits. So they have acquired the architectural plans for the building, we have submitted that and we are -- I think we're in agreement on that. Keith?

MR. LARSON:
Yes, it's being reviewed.

MR. MALLAMO:
That's in place right now. There was another issue stated that we cut a door in the boathouse of the -- or a doorway in the boat house, that is not accurate. We are planning a marine program in the boathouse in the future and the area that this was going to take place was in the basement of the boathouse where there was only one entrance. And we were concerned that the fire marshal may require an additional exit from the basement. So in fact, we contacted the Fire Marshal, had him come over to the museum, look at the area, he works with DPW on these projects. He inspected it and he said yes, in fact, you will need a doorway and you have to have an architectural plan done that is submitted to DPW and approved. DPW had contracted with an architect to develop a restoration plan for the boathouse. We contacted that architect, there was not a fee involved, it was a courtesy because he was working on other matters relative to the boathouse regarding the rebid of that project, and he came out and looked at it and said yes, it could be possible to do this. No plans were ever drawn up, the doorway was never installed, I mean, it has essentially gone nowhere, so I can assure you that that action has not occurred. And I have the basement of the boathouse on video tape and there is no other doorway.

CHAIRPERSON FIELDS:
So then whatever work you ever plan on doing or attempt to do, you are in close contact with DPW.

MR. MALLAMO:
Absolute ,ly. I think Keith can confirm that. I think Mr. Larson and I talk on at least a weekly basis. If you would like him to come up and address you?

CHAIRPERSON FIELDS:

No, that's okay. I just -- you know, it had come up in the past and I believe it was written also in some of the paperwork that we had seen back and forth. You get copies of the menus from -- the menus, of the memos from -- I haven't eaten lunch -- from Budget Review, do you not?

MR. MALLAMO:

Yes.

CHAIRPERSON FIELDS:

There's one dated July 16th, do you have that?

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MR. MALLAMO:

I believe we do have that.

CHAIRPERSON FIELDS:

Where in the first paragraph says, "Recent declines in the equity markets have adversely impacted the market value of the fund." It goes down into the second paragraph, "In July of 2002 the financial market conditions prompted Fleet Investment Services to temporarily suspend distributions from realized capital gains. The museum is aware of this situation and is developing alternative programs to generate revenue and reduce expenses to avoid cash flow problems." And their recommendation states, "We fear that continuation of the \$1 million guaranteed income will institutionalize the use of realized capital gains and when the stock market goes down the County will have to subsidize the museum," and that -- well, it goes on, you have it in front of you. How do you respond to the continuation of the \$1.2 million from the fund and developing some kind of a financial plan to address problems that are going to happen?

MR. GITTELMAN:

Well, we would like to ask some questions about some of this information, it would help us in terms of responding to you. One of the questions we have is this is written as if there is a pending crisis and we're very concerned that Budget Review sees it as a pending crisis. So what we went to ask Budget Review, if they don't mind, is can they explain the nature of the crisis.

MR. POLLERT:

Specifically what we are troubled by is the Vanderbilt Trust Fund which has continued to lose ground in part because of market conditions, in part because of investments they had made in WorldCom and Enron. In addition to having to continue to make the distributions from the trust fund, specifically what has happened is

the valuation of the trust fund has declined. Based upon what we're currently forecasting as well as conversations that we had with Fleet Investment Services yesterday, they anticipate that the distributions from the trust fund will be approximately \$300,000 less than the \$1.2 million. If you look at the business plan that was just handed out previously, the Vanderbilt is projecting that they're going to be in a break-even for 2002, however they are also forecasting that the revenues from the trust fund are going to be coming in at \$1.2 million. We are currently estimating that the revenues from the trust fund are going to be about \$900,000 this year.

The Vanderbilt has already received lower distributions because the amount of realized capital gains is nearly exhausted. If the trust fund were to liquidate all of their stocks today, they would only be able to distribute \$10,000 to the Vanderbilt in realized capital gains. So there is currently a projected shortfall between now and the end of the year of about \$300,000 in revenues from the trust fund. In addition to that, unless you're wildly optimistic, you would have to look at what type of revenues will be distributed to the trust fund next year if the markets don't improve. The way the trust fund is currently configured, they will be able to generate about \$650,000 worth of income to the Vanderbilt next year exclusive of realized capital gains.

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So what we've been concerned about is it's clearly part of the time that the Legislature needs to deal with the operating budget. If the Vanderbilt Museum needs the \$1.2 million, it may be important for the Legislature to consider whether or not an operating subsidy from the General Fund to the museum would be required to maintain the operations of the Vanderbilt Museum. If you look at their costs as was identified, they have a lot of fixed costs, they have the fixed costs of salaries and heat and light and power and benefits. The Budget Review Office can't identify the extent to which the museum has to have a guaranteed \$1.2 million on that annual basis. When they spoke before the Legislature previously, they said it was important that they have that type of level of support, it does not appear that that level of support will be forthcoming under current market conditions from the trust fund, the alternative is a transfer from the General Fund to the Vanderbilt to maintain their operations if they can't, in fact, either reduce the costs or increase other revenues. That is what the nature of our concern is.

MR. GITTELMAN:

Okay. Now, what I'm not understanding, and I need your help here, is what you're saying -- you keep using -- you said that there would only be \$10,000, that if they liquidated all of the equities there would only be \$10,000 that could be distributed to the museum, and that

furthermore there will be a \$300,000 shortfall. But can I just take the \$10,000 statement and ask you how you come to that number of \$10,000?

MR. POLLERT:

When the Vanderbilt generates their monthly report, they have what the

market value was at the beginning of the year versus what the current market value is. To the extent that they could sell all the stocks, it would be \$10,000 worth of realized capital gains. The capital gains is not calculated on what the first purchase price of the stock was, it is what was the realized capital gains from the beginning of the year. I believe it's an IRS rule and regulation. It was a standard interpretation that has been used from the time that I believe Legislator Rosso was the Chairman of the Finance Committee to calculate what the realized capital gains would be.

MR. GITTELMAN:

Okay. So what you're saying is that the basis is based upon an IRS regulation that takes it from December 31st of the prior year.

MR. POLLERT:

Right.

MR. GITTELMAN:

Correct. And -- okay. Would it be okay if we bring up additional people to help us with this particular point, because this is critical for us.

LEG. FOLEY:

This is just -- just through the Chair, this is just predicated on if you would sell the stock but you have no intention of selling the stock; is that not correct?

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MR. GITTELMAN:

We have no intention of selling stock.

LEG. FOLEY:

All right. So if, in fact, you're not intending to sell stock, this becomes something, something of an academic point.

MR. GITTELMAN:

Well --

LEG. FOLEY:

Let me just finish. And that if there are other let's say -- I won't say more relevant, but if there are other issues that point towards

something approaching a crisis, then we really should spend the committee's time to talk about things that are more of an immediate nature than this other point which is an interesting point and has some dimensions to it but it's not in the realm of probability because the museum is not intending to sell the stock. That being the case, why don't we spend the committee's time if, in fact, you do have questions about other equally relevant but more immediate or urgent points that were raised by the Budget Review Office. I think that would spend our time more efficiently and it would be more germane to the purposes of the committee meeting; would you agree, Madam

Chair?

CHAIRPERSON FIELDS:

And I guess that the base question here is what are you and what can you do about the shortfall?

MR. GITTELMAN:

There is no shortfall, okay, and that's our point. And that's what we -- what we are confronted with here is the possibility of an artificial crisis. There is no compelling reason for public funds to be given to the Vanderbilt Museum and we would like to explain our position as to why we disagree with Budget Review. And of course, that's critical to defining the crisis; if there is no crisis then --

LEG. FOLEY:

So there won't be a shortfall of 300,000 by the end of the year?

MR. GITTELMAN:

Well, because I think that there are some assumptions here that are incorrect and we would like to present them to you because we believe Budget Review is going on some interpretations that perhaps you might want to hear. You know, in other words we have never been given a chance to explain --

CHAIRPERSON FIELDS:

Go ahead.

MR. GITTELMAN:

Okay. May we, please? Bob Garfinkle?

CHAIRPERSON FIELDS:

Maybe some could also stand at the podium -- oh, okay. No, it's just one person, there's enough room.

MR. GARFINKLE:

Good afternoon. If I understand the question and the issue --

LEG. LINDSAY:

What's the speaker's name?

CHAIRPERSON FIELDS:

Identify yourself, please.

MR. GARFINKLE:

Robert Garfinkle, Suffolk County Department of Law. And pursuant to resolution of the Suffolk County Legislature a number of years ago, the Department of Law is directed to the extent practical to assist the Vanderbilt to avoid their necessity for outside counsel and minimize their costs and in that capacity, we do work for the Vanderbilt Museum.

Under -- the Vanderbilt Museum was incorporated under the Education Law and the Education Law refers the basic operating laws for the museum to be guided by the Not-for-profit Corporation Law. In I guess the early 40's, and I may be off by a few years, William Vanderbilt died, he left a will and sometime in the late 40's or early 50's under that will the County took possession of the Vanderbilt Museum and formed what subsequently became the Suffolk County Vanderbilt Museum.

Under that will, there was what was called a trust but under the terms of New York Law what, in effect, was an endowment was set up and I believe -- this I need the accountant for verification, but my understanding was there were two distributions, one roughly in 1948 or '49 of about \$2 million and a second distribution that was -- came in the early or mid 50's or 70's rather and that fund was originally given to the wife of Mr. Vanderbilt in trust and when she died I think it went to the daughter and they were able to get the income from that trust. Upon the daughter's demise, what was in that account then was transferred to the Vanderbilt Museum and I believe that amount -- and again, subject to what the accountant says -- but from what I've been told that second amount was \$6.2 million. So effectively, the endowment that was set up by direct contribution to the museum was \$8.2 million.

Under the Not-for-profit Corporation Law, unless the instrument of the endowment says otherwise, anything over those contributions may be used, if appropriated, as deemed to be excess revenues or income effectively. So anything over the eight -- assuming that the 8.2 million is correct, anything over the \$8.2 million is legally authorized to be appropriated as income if it's deemed to be -- if it's wanted to be; it doesn't have to be but it can be deemed to be income. So I guess the real issue is -- and I don't know any of the figures or anything, but any -- if you go below the 8.2 million or approaching going below the 8.2 million, you can't do that, if you are above the 8.2 million an appropriation can be made as income.

LEG. FOLEY:

That's your point?

MR. GITTELMAN:
It's part of the point.

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LEG. FOLEY:
Just on that point and through the Chair. That 8.2 figure was set, what, in the mid 70's, early 70's?

MR. GARFINKLE:
It was set at two points in time. And again, you need -- these are figures that were given to me.

LEG. FOLEY:
All right. The reason I'm asking as to when that figure was arrived at --

MR. GARFINKLE:
At two points in time.

LEG. FOLEY:
All right, well, let me finish the question. And then if you factor in, you know, whether it's inflation or cost of living, for instance, if it was 8.2 in the mid 70's, what's the equivalent of 8.2 today? Now is this eight point -- you know, I'm not an attorney but is this 8.2 a constant figure for the next hundred years?

MR. GARFINKLE:
Yes. Under the law --

LEG. FOLEY:
Let me finish my point, please. Or is it 8.2 which is a real figure in that period of time and then that figure has to be adjusted to what that figure would be the equivalent of at any future time.

MR. GARFINKLE:
Under New York Law, anything over the 8.2 million may be deemed to be income, if that answers your question.

LEG. FOLEY:
All right. So in other words, 8.2 in the year 2050, if it's above 8.2 it can still be used.

MR. GARFINKLE:
Correct.

LEG. FOLEY:

Not if, in fact, you look at inflation and all the rest, it really should be let's say 16 million.

MR. GARFINKLE:

Correct, unless the deed, the gift instrument or the endowment instrument indicates otherwise.

LEG. FOLEY:

Well, as an attorney who is supposed to be looking at -- helping the Vanderbilt from time to time, what does the instrument say about that?

MR. GARFINKLE:

The instrument is silent. The instrument says nothing about -- it does not indicate what is going to be deemed to be income or principal.

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Because the deed or the conveyance does not under indicate it, you then go to the applicable New York State Law and under the Not-for-profit Corporation Law, and I will read it to you if you want specifically --

LEG. FOLEY:

I'll take your word for it.

MR. GARFINKLE:

Okay, it says anything over the historical value, historical value. Now, the historical value is defined under the law as the actual amount of the contributions, the actual amount of the contributions. Again, assuming that the figure I was given is correct is 8.2 million, they specifically use the term historical value.

CHAIRPERSON FIELDS:

Fred?

MR. POLLERT:

Actually this was a topic when the Legislature was considering this a number of years ago. At that time, when the Legislature was considering a distribution of the realized capital gains, the Law Department actually had concerns because if you look at the will it talks to the net income, not just the gross income but the net income which is generated from the trust fund being distributed. So when the Legislature was talking about the distribution of the realized capital gains, I know there were some concerns on the part of the Law Department at that point in time that the net income needed to be defined as just the income from the bonds from the dividends and not necessarily the realized capital gains. I believe that there was an interpretation at that point in time that allowed the Legislature to

move ahead with the distribution of the realized capital gains, but I know that this topic was looked at previously and because of the term the distribution of net income that had presented some problems. I'm sure that Legislative Counsel probably has a better recollection, but I'd be happy to give him a copy.

MR. GARFINKLE:

The only recollection I had was back in January of 1995 the issue had come up. I had written an opinion then, and Fred may be advised or be aware of something that I'm not, but at least as far as the Department of Law, and I can hand it up to the committee -- and I've researched the law from 1995 when I wrote the memo to what it is today and it has not changed, is I don't have any recollection of gross or net other than in the will. And historically when they refer to net income, it's after expenses of brokerage commissions and things like that, it's what's netted in the account. And I have if you are interested the '95 opinion from the Department of Law. I mean, I'm not trying to get in-between it, I just don't want anything misrepresented as to what our position was and the position today is the same as what it was in 1995.

LEG. LINDSAY:

I think our concern isn't about -- so much about where the income is coming from. Are you people going to need more money from the County to operate the museum?

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MR. GITTELMAN:

No, sir. What we're -- I think the gist of what we're saying is this. Is that the endowment based upon Budget Review's handout today, is at 13.1 million at some date in August or September; is that yesterday's figure, Mr. Pollert?

MR. POLLERT:

Uh-huh.

MR. GITTELMAN:

Is at 13.1 million, the historic basis is 8.2 million. There is nothing restricting Suffolk County Legislature from continuing the policy of the \$1.2 million guarantee to the museum because we don't -- because there is a \$5 million gap between the historic floor if, you will, and the current value. In other words, there's absolutely no reason that we can see that public funds should be used or that the policy that's been in place should be changed. And that because the law is what we believe it to be, you're free to give us -- to continue the policy without concern.

LEG. LINDSAY:

That's all I wanted to hear.

MR. GITTELMAN:

At no time has the museum asked for any money from public funds for operating purposes and we are not here today to do so.

MR. POLLERT:

That is absolutely correct. That was something that the Budget Review issue -- that the Budget Review Office had raised as an issue. The resolution that authorizes the distribution of realized capital gains would have to be changed by the Legislature so that Fleet Investment Services could do a distribution below realized capital gains; in other words, make distributions even if there are no realized capital gains.

This is a major policy issue. I was not suggesting that the Law Department has been inconsistent from 1995, this topic was discussed by the Legislature probably when John Rosso was the Chairman of the Finance Committee and we changed from Bessemer} Trust to a different

investment advice, or. There was a lot of discussion at that point in time. The policy then becomes if the investment advisor has no intention of liquidating equities, if they have to meet the \$1.2 million they're establishing a policy where Fleet Investment Advisors will have to potentially sell stock so that you can generate \$1.2 million. It's always been a policy of the Legislature to, in fact, not do that to come up with the necessary distributions to the trust fund.

MR. GITTELMAN:

Madam Chairwoman? The issue of realized capital gains within the year is something that we address every year with this Legislature, we bring up the point. And in our -- in the proposed resolution that Legislator Cooper submitted that we are currently under, I have it here, there --

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MR. MALLAMO:

This is what Legislator Cooper did.

MR. GITTELMAN:

This is the proposed one.

MR. MALLAMO:

This was proposed for this year.

MR. GITTELMAN:

Oh, for this year. Okay, I'm sorry. Each year -- last year when it was proposed, the language of realized capital gains was not in there, okay. There's slight confusion, I apologize. We had brought up the point that you don't have to have realized capital gains, that this interpretation that it be based upon that which happened from

December

31st is something that the Legislature is imposing and it's not -- the Legislature is imposing, we're not telling you that you can't impose it, we're just telling you that the museum has in its endowment the money to operate. And that this clause probably should have been left on the drafting table because it tied all of our hands in a down market, although it was not necessary by law other than County Law as you folks have determined it. What we're saying is that the endowment is legally able to handle our needs.

Now, another point. The endowment is at \$13 million, there would be trading coming and going in the endowment. If the Investment Counsel was under direction to plan on \$1.2 million, he would make judicious trades as he sees fit. But one thing that I want you to understand is that there is -- and I'm going by recollection from my last discussion, and Mr. Pollert, please correct me. There is \$700,000 case sitting in the account.

MR. POLLERT:

Which they intend to invest.

MR. GITTELMAN:

Ah, they intend to invest.

CHAIRPERSON FIELDS:

Whose they?

MR. GITTELMAN:

Budget -- Investment Counsel.

CHAIRPERSON FIELDS:

Investment Counsel plans to invest \$700,000.

MR. GITTELMAN:

There is \$700,000 in cash in the account. So it's not the case of them selling out of positions that they think they have to hold, it's that they have a cash reserve there, it's actually sitting in I believe money markets, okay. So it's simply a matter of the law restricting them to give it to us, it's not a question of them having to sell valuable stocks that they believe are good for the future of the institution, it's just their cash reserves. And it's that cash reserve that you're talking about putting up public money to replace

and it doesn't make any sense to us. We feel that if the endowment has \$700,000 in cash sitting there and the museum has it budgeted, then they should simply give us the money from the cash and that you shouldn't be putting public funds in to replace it.

CHAIRPERSON FIELDS:

Fred, do you agree?

MR. POLLERT:

The \$700,000 is kind of a moving target. Based upon conversations with Fleet, they wanted to maintain a large cash position, number one. Number two, they also sold a lot of stock because they don't want to have more than 2% in any one stock. It's their intention, because they believe the market is going to go up, to start to make purchases relatively quickly, so there might be \$700,000 there yesterday, there could be less there today, it could all be gone by next week. By the time the distributions have to be done there may not be any material available cash.

Clearly, the Legislature -- and I guess it's the Finance Committee that has control over the trust -- would need to look at the topic and you would, number one, may have to rescind that definition of realized capital gains if in fact it is legal to do so and doesn't run afoul of any IRS rules and regulations that I know was a concern in the past or -- and number two, you would also have to give direction to Fleet to allow the distribution of the funds. The Budget Review Office was attempting to be proactive with respect to living within the context of what the current interpretation is that was established by the Legislature which is realized capital gains can be distributed.

MR. GITTELMAN:

We have brought our accountant who is prepared to address the IRS issues in terms of whether or not there are any IRS restraints; might we bring him up?

CHAIRPERSON FIELDS:

I'm getting an answer to a quick question first before I answer you.

MR. GITTELMAN:

Okay.

CHAIRPERSON FIELDS:

Legislative Counsel.

MR. SABATINO:

Yeah, I think just to clarify a couple of points. Fred Pollert is correct from the standpoint that you're going to have to go back to the drawing board and rewrite the legislation if there's going to be a

change in the way we're distributing the money. Because those regulations that were put in place back -- I think it was 1984 or 86 when the transfer took place were done for a reason. If at a later time there's going to be a change in the reason, that's going to have to be reflected in the legislation.

The other thing I would point out is that in 1995 when we went to this 1.2 million -- actually, I think it started at 1 million, the reason

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it was done on a periodic basis was that it was supposed to be a temporary program. It was never intended to be a seven year program;

in fact, at least two or three times along the way it was conditioned on -- there were supposed to be matching initiatives to raise alternative sources of money. One year we put a clause in I think saying that something had to happen with admission tickets or program.

So the reason there's always been a short leash on this is because it was never intended to be a permanent program and I think that if it's going to become a permanent program you're going to have to go back and rewrite it as a permanent program, change the investment policy basically is what it would require, change the definition. But you can't do it in my judgment on an ad hoc basis. And I think that's really where Budget Review is coming from and I think to keep -- just giving you the red alert because at some point this temporary program is going to be transmogrified into a permanent program and that has implications I think for the overall integrity of the endowment. So you're really going to have to do something legislatively at some point; today may not be the day but somewhere down the road.

CHAIRPERSON FIELDS:

Okay, here's what I think would like to go with this. Your people, whomever you need to address the situation, should probably sit down with our Budget Review Office and make some -- did you want to say something?

MR. POLLERT:

I just wanted to have Paul included as well as Legislative Counsel.

CHAIRPERSON FIELDS:

Yes and have our Legislative Counsel included and come to some kind of

an agreement about what has to happen from this point on since it's been done in a different manner than you feel that it should be done. And then come back to the committee and tell us what the plan is going to be and what you're going to need and I think you probably need to do that quickly.

MR. GITTELMAN:

Yes.

CHAIRPERSON FIELDS:

And it might have to go also before the Finance Committee, I'm not really sure; is that true?

MR. SABATINO:

Not now because that -- Fred was right, that's where it started and that's where the jurisdiction was, but because of successive years of changes now it resides in your committee.

CHAIRPERSON FIELDS:

Okay.

MR. SABATINO:

It used to be in Finance.

CHAIRPERSON FIELDS:

So that's what I think I'd like to have happen now. This way I think

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there aren't going to be any questions and problems and concerns because everybody is going to be on the same page.

MR. GITTELMAN:

We agree.

CHAIRPERSON FIELDS:

And that's what I would like it to be.

MR. GITTELMAN:

Can I say just a few things, please? One thing is is that the idea came -- I think, Angie, you were there -- the idea came -- I was the one who pushed the idea in the beginning.

CHAIRPERSON FIELDS:

Which idea is that?

MR. GITTELMAN:

The idea of changing the -- and there was another trustee involved with me, of changing the method in which the endowment was invested.

At that time, it was I believe 13% equities and the rest in bonds and 7% or 8% in cash; I'm approximately correct I believe.

MR. POLLERT:

Uh-huh.

MR. GITTELMAN:

And we said given the stock market's growth we expect an increased growth. But because stocks don't yield interest, okay, we put in the concept that you'll have to fix the income to the museum because if we left it in interesting bearing commodities at the time we would have a fixed income. If we were going to now put say 40 or 50% of the endowment into stocks, you're going to have to give us a fixed income because we're cutting our income and we would be hurting the institution, and that was understood in the beginning and it was never a temporary measure. It was brought up, there was discussion -- let me just finish, Paul, before you go. It was brought up that is this a temporary measure and everything like that, but as long as we were making the change there's no way for the museum to absorb the loss of income that comes as a loss of the interest that we would have gotten where stocks don't yield interest; you know, they yield dividends but not at the level that interest is yielding at the time. So it was kind of a doomed permanent change because we changed the mix.

And we would be glad to meet. The trouble is is that we are caught in a situation where if it is the intent of investment Counsel to withhold \$300,000, there's no time for the museum to recover, okay. You're basically saying that for the months of September, October and November, or somewhere in here, we're going to be held short \$300,000.

We simply will go into a cataclysmic cash flow crisis and have no way of covering what would be more than 50% of our revenues for the time period. In other words, we simply can't recoup on this instantaneous problem but it is a crisis, if you will, of understanding, it is not a crisis of necessity.

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CHAIRPERSON FIELDS:

Okay. So then with that said, I would like for you to make arrangements, number one, to get that tape to us so that we can all see it a little bit more and be a little more clear on what's going on. And secondly, that you meet with Legislative Counsel and anyone else that you need from your part and our Budget Review Office and come together with what is going to happen in the future and then if we have to change things with what we have to put into a resolution and then we'll talk again. Okay?

MR. GITTELMAN:

Okay.

CHAIRPERSON FIELDS:

Thank you very much.

MR. GITTELMAN:

Thank you.

MR. MALLAMO:

Thank you.

CHAIRPERSON FIELDS:

We have some appointments that, I apologize, we probably should have done those in the beginning so you didn't have to sit through all of this. So once we clear out the front, I'd like to invite some of the people who are here today for either an appointment or a reappointment. If you know who you are, why don't you come on up altogether and we'll address first come first serve.

UNKNOWN VOICE:

What are we serving here?

CHAIRPERSON FIELDS:

It looks like Chuck Stein and this is referring to IR 1955-02 - Appointing a member of the Suffolk County Alternative Parks Funding Committee. Hi.

MR. STEIN:

Good afternoon. I'm here at your invitation to serve on the Alternative Parks Funding Committee. I was first contacted by Peter Scully about whether or not I'd be willing to serve on this and I said anything I can do to help the County I'd be happy to do that. So I'm here to answer any questions that you may have.

CHAIRPERSON FIELDS:

Okay. Well, the resolution asks that a committee meet and discuss ways in which we might be able to bring money into the park system that we so desperately need and you are one of the appointments toward that committee.

LEG. ALDEN:

Ginny?

CHAIRPERSON FIELDS:

Yes?

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LEG. ALDEN:

So Chuck's going to be one of the financial experts?

CHAIRPERSON FIELDS:

Financial, right.

LEG. ALDEN:

Good, that's a good balance.

CHAIRPERSON FIELDS:

And so I will let the committee ask any other questions first and then I'll -- did you have a question?

LEG. LINDSAY:

No, really you answered it.

CHAIRPERSON FIELDS:

Oh, okay. So your capacity -- I know we have a backup resume from you but just for the record. Your background in finance?

MR. STEIN:

I have approximately 32 years involved in public finance starting with almost eleven years with the United States General Accounting Office and I left the General Accounting Office to come to work for the Suffolk County Legislature's Budget Review Office.

MR. POLLERT:

The best years of your life.

MR. STEIN:

Best years of my life. And from there I went to the County Comptroller's Office, ultimately as Chief Deputy County Comptroller. I've had experience as Director of Finance with the Suffolk County Water Authority; Deputy County Executive for Finance for about a year-and-a-half with County Executive Robert Gaffney; I have been on Wall Street with a municipal bond firm, I was Vice-President for Public Finance with Roosevelt and Cross for approximately three years; unfortunately I spent a short period of time in another municipality and then I'm back here in Suffolk County currently as Chief Financial Officer with the Suffolk County Community College.

I'm also a member of the Standing Committee of the Government Finance

Officers Association of the United States and Canada on budgeting and financial management. And when I was first requested to serve on this committee, I got on our list serve to my national committee members and I discussed the situation about funding of parks and I asked for their input and I've begun receiving information from around the country on various methods for funding parks programs.

CHAIRPERSON FIELDS:

Wonderful. As soon as -- we have two of these resolutions to approve and once that is completed we will then schedule a meeting to begin

the process. But does anyone have anything that they would like to speak to Mr. Stein about?

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LEG. LINDSAY:

I would make a motion if it is appropriate.

LEG. CARPENTER:

Yeah, I would just like to put on the record that I think it's truly commendable that you're willing to come forward and volunteer and be on the committee; it's not a salaried position. The fact that you have served in your capacity in the County Executive's Budget Office, your experience with the Legislative budget process, the community college I think is the kind of broad-based experience that really will do well as we approach and tackle this issue. So I thank you.

MR. STEIN:

Thank you.

CHAIRPERSON FIELDS:

Okay. I think you're just the man for the job that we need and I'll make a motion -- I actually will have to take a motion to take this out of order.

LEG. CARPENTER:

Second.

CHAIRPERSON FIELDS:

So it is then IR 1955-02 (P) - Appointing a member of the Suffolk County Alternative Parks Funding Committee (Charles Stein) (Fields). I'll make a motion to approve.

LEG. CARPENTER:

Second.

CHAIRPERSON FIELDS:

Seconded by Legislator Carpenter. All in favor? Opposed? Approved (VOTE: 5-0-0-0). Thank you and we will get to you with what date the committee meeting will begin.

MR. STEIN:

Thank you.

CHAIRPERSON FIELDS:

IR 1956-02 (P) - Appointing Jack Finkenberg as a member of the Suffolk

County Alternative Parks Funding Committee (Fields). Jack Finkenberg is here as an appointment to the same committee. Jack, you fill the

environmental position, maybe you could add a little to what you would like to present to the committee?

MR. FINKENBERG:

Is this on?

CHAIRPERSON FIELDS:

Yes.

MR. FINKENBERG:

Okay. Jack Finkenberg, I live down in Babylon. I guess my environmental credentials go back to my association with the Audobon Society, great South Bay Audobon Society; I've been a member for 30

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years and I've been on the board for about 25 of those and recently was elected President. I'm on the board of the Open Space Preservation Land Trust, I've been on numerous town environmental conservation commissions and presently serve on the CEQ, the County's CEQ.

CHAIRPERSON FIELDS:

Okay.

MR. FINKENBERG:

And I like to go bird watching and hiking and I've been in all the County parks and I think I can bring an environmental perspective to the committee.

CHAIRPERSON FIELDS:

Great, thank you. I'm going to make a motion to take 1956 out of order for the purpose of approval.

LEG. FOLEY:

Second the motion.

CHAIRPERSON FIELDS:

All in favor? Opposed? Taking it out of order. Motion to approve.

LEG. FOLEY:

Second.

CHAIRPERSON FIELDS:

All in favor? Opposed? Approved (VOTE: 5-0-0-0). And we'll also contact you as to the date of the first meeting.

MR. FINKENBERG:

Thank you.

CHAIRPERSON FIELDS:

Thank you very much.

LEG. FOLEY:

Good luck, Jack.

LEG. CARPENTER:

Thank you.

CHAIRPERSON FIELDS:

Do we have anyone else here? No, okay. I guess there were a couple of things that we wanted to talk about. We have the Forsythe Meadows -- do we have three people here from Forsythe Meadows, yes?

Why don't you come on up and we'll talk about the fees lastly when the Commissioner comes up before the agenda. We should have Michael Errico, Laura Schwanof and Jeffrey Seeman here; am I correct?

MR. ERRICO:

Yes.

LEG. ALDEN:

Madam Chairwoman, what we're specifically talking about is just a fence and damage that was done, or --

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CHAIRPERSON FIELDS:

IR 1276-02 (P) - To implement retention of technical consultant in connection with Forsythe Meadows property damage (Fisher). This resolution is asking for a technical consultant to look at the damage at Forsythe Meadows from when they did erect the fence. Ladies first. Can you bring the microphone up close and give your name for the record?

MS. SCWANOF:

My name is Laura Schwanoff, that's S-C-W-A-N-O-F and I'm Landscape Architect and Senior Ecologist at EEA Incorporated.

CHAIRPERSON FIELDS:

Well, let's start with you, Laura. You've submitted a resume. Is there anything that you would like to discuss on how you would propose to evaluate this?

MS. SCWANOF:

I don't have much to add except for the fact that, I would reiterate, I've have almost 22 years in the environmental analysis field, working in the field, about ten years as a soil conservationist evaluating cut slopes, deep bank areas, reestablishment of vegetation and shoreline

stabilization and bank stabilization, I would just underscore that, and have had some working relationship with the Parks Department in the past.

CHAIRPERSON FIELDS:

Have you seen the property that we're talking about?

MS. SCWANOF:

I believe I have. I don't have an exact location but I think I know where it is, behind the post office area in Stony Brook which is not far from our branch office.

CHAIRPERSON FIELDS:

Okay. Next?

MR. SEEMAN:

My name is Jeff Seeman, S-E-E-M-A-N. I'm with Coastal Environmental Corporation, I'm President and owner. Academic-wise, I hold an MS in Environmental Technology from the Graduate School of Engineering at New York Institute of Technology and a BS in Earth and Space Science from Stony Brook. I'm also an Academy Board Certified Environmental Professional, it's a national registration that requires nine years of experience as a minimum for interview, five years needs to be in a supervisory capacity. I'm also registered as an Environmental Professional, registered as -- certified as a Qualified Environmental Professional, those are two nationally recognized registrations. I'm registered as an Environmental Assessor with the State of California. I'm OSHA certified, this is not a hazardous waste site, and I'm also certified as a master naturalist through Cornell's Cooperative Extension Program. I've been practicing in the environmental field for 18 years. I do my own work, my own field work. Much of my work is

on

the east end where wildlife habitats and botanical inventories are mandatory, as most of the EIS' that have been prepared out there.

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You asked about particular techniques. I haven't been up to the site, but basically you're going to have to walk that site, inventory some of the species that are still up there, take a look at what has been removed and then I would imagine develop some type of a mitigation program in order to evaluate what is severity of damage has been created. Unfortunately we in the ecological field do not have a pre-set list of check list items that you could just tick off and assign a certain dollar value to each of those, so there is a great deal of judgment that is going to be required in order to accurately do the evaluation.

CHAIRPERSON FIELDS:

And there's probably no inventory of what was there prior to the fence either. Legislator Alden?

LEG. ALDEN:

Before we go on just so I understand, you know, where we're going on this. Is the end result a lawsuit to compel somebody to restore the property to prior conditions, or are we involved in a lawsuit already? If somebody can tell me what we want to accomplish when we're all

done

with this.

MR. SABATINO:

This deals with the acquisition of the Forsythe Meadows property which took place several years ago. In the year 2000, people in the community came forward and indicated to this committee and its predecessor members as well as the full Legislature that some damage had occurred to the property in connection with the installation of a fence by the previous owner. As a result of that, a resolution was adopted in the year 2001 which basically laid out a process for the Commissioner of Parks to come up with a recommendation for a consultant to go in and evaluate and assess what that damage is so that the County can attempt to get either restitution in-kind or restitution in the form of damages. What the Parks Commissioner did earlier this year was he sent over a recommendation of three as opposed to one, so you now have -- these were the three that were recommended by the Parks Commissioner to do assessment and the evaluation which will be the predicate or the basis for trying to get that restoration or restitution, whichever it turns out to be. So you're left now with the process of screening or interviewing the three perspective candidates.

LEG. ALDEN:

Okay. Is it appropriate then to determine or ascertain whether these people would be able to testify at a trial or whether it's just technical data that they -- we're looking for from them?

MR. SABATINO:

It would be the whole array. I mean, I would think that you'd want to -- you'd want to know what their background is in terms of the expertise to do it, A. But number two, you'd want to know how they propose to do it. Obviously there's going to be a written report, and then when the written report is prepared and concluded it may become necessary at a later time to do what you just described which would be testimony. But assume the worst and hope for the best, but the worst would be the full array, the full package.

LEG. ALDEN:

Good. Then after each one is presented then, if the Chairwoman would recognize me again, then I'd like to ask some questions in that line.

CHAIRPERSON FIELDS:
What was the question?

LEG. ALDEN:
If after all three of them --

CHAIRPERSON FIELDS:
Yeah, I'd like all three and then --

LEG. ALDEN:
And then I'd like to ask, you know, some questions along those lines.

CHAIRPERSON FIELDS:
Okay.

MR. ERRICO:
Michael Errico from MJ Designs.

CHAIRPERSON FIELDS:
That's not on I don't think. On the top, go towards the microphone.

MR. ERRICO:
Michael Errico from MJ Designs. I have a Bachelor's of Landscape Architecture from the University of Georgia, I've been President/Owner of MJ Designs for seven years now. I have done some work with the Parks Department previously and actually currently starting work on Coindre Hall.

I did walk the site, I met with Vivian Fisher out at the site and took a look. It seems to be that there's an eight foot access road cut in to install the fence. And when they did the fence, the footings for the fence, they dug out the sandy soils and then left those sandy soils on top, so there's not like that nice, good topsoil along the top surface there. And it did compact the soils, so I think that, you know, we should definitely amend the soils first and that's part of replacing this vegetation. They did leave most of the canopy species, but all of the understory species within that eight feet access road have been removed.

Between the compaction of the soil and the fact that they left the sand and the gravel on top, it will be very difficult for succession to occur and to have it grow in naturally. But they did leave most of the canopy species so I don't think that it's going to be -- you know, it's something that we don't have to wait 30 years for it to turn into what it was. We could take a grid within the native forest, say a 30 by 30 area, and examine that grid and see what's naturally occurring in that zone and then use that formula to revegetate the area that was

cleared.

CHAIRPERSON FIELDS:

Just for the purpose of the committee, this also was a nature preserve or is a nature preserve. I guess you have the first question.

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COMMISSIONER SCULLY:

If I could, Madam Chairwoman?

CHAIRPERSON FIELDS:

Oh, sorry.

COMMISSIONER SCULLY:

Just because it's pertinent to the questions raised by Legislator Alden. I can't speak for the bill's sponsor, although I have worked closely with her on this issue, we had been attempting to negotiate with Mr. Eversol who was the principal from the prior owner of the property, a restoration, some mitigation or remediation of the property and, in fact, he had expressed a willingness in our meetings to undertake that, although the degree to which he was willing to invest was something that remained to be resolved.

The department's own environmental analyst completed an assessment of

the conditions in April of 2001. One of the difficulties here is that the actual clearing took place in August of 2000, so some time has transpired since that time. We think that our environmental analyst did a pretty good job making recommendations for remediation and that the assessment is something that we could stand behind, both -- I don't think I'm out of line when I say I think Legislator Fisher believes that, too.

The pending legislation I think grows out of her frustration in waiting for the process to run its course and be ultimately resolved. And what's really holding us up at this time is that both parties, both the County and Mr. Eversol who expressed a willingness to undertake some remediation agreed that undertaking the remediation before it's determined whether or not this remaining piece of fence which the covenants and restrictions running with the land require that I had kind of stopped them from installing in August of 2000, whether or not that's going to need to be installed.

The right to amend that covenant and relieve us of the obligation to install that fence lies solely with the Ward Melville Heritage Organization/Eagle Realty Corporation, and I had initially requested from them an amendment to this fence plan to eliminate the requirement

for this portion of the fence. A portion of the fence that has already been installed lies between the County property and the property that Eagle Realty owns and they would have the right to erect that fence on their own without any involvement on our behalf at any event. It's the remaining portion that doesn't border property that they own that would lie between the Suffolk County Nature Preserve

and

adjoining residential property owners, we see very little value in the installation of that.

I had requested in 2000 an amendment to the fence plan to eliminate that requirement, their response was to eliminate a portion of it but to continue or maintain the covenant and restriction requirement, a portion of it be installed. In the wake of our discussions with Legislator Fisher and Mr. Eversol, I reiterated the request to Ward Melville Heritage Organization and told them, "Some time has passed now, the portion of the fence that really makes a difference for you, insofar as we could tell, that lies in between your property and the

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County property is in place. We see limited value to installing a fence between County property and adjoining residents, would you reconsider and consider eliminating that requirement?" That request is still pending.

Two cycles ago you asked me to consult with the bill's sponsor and say -- you said, "Commissioner, find out what's going on with this, it's been pending for so long." And after discussing it with Legislator Fisher, I did contact the Ward Melville Heritage Organization to ask them what the status of our request for the elimination of that portion of the fence was. I was advised by the President or Chief Executive Officer that they've got a lot of things going on right now and they weren't in a position to respond to the request. Why that's important is because Timber Ridge at Stony Brook and Mr. Eversol are willing to undertake some remediation at the site, but we all agreed that if we're going to have to go in and install the remainder of this fence, it doesn't make much sense for us to do the remediation until that's done because they're going to need to go in there, even if they install it by hand, and put that fencing in.

So that's a little bit of a snapshot as to where we are and why we are. And certainly, I hate to trouble the committee further with this issue that's been lingering for two years and to take up any more of your time. And I have with me a copy of the environmental review and evaluation that our own environmental analyst did and I'd be pleased to make available copies for the committee if that's something that would be helpful to you.

CHAIRPERSON FIELDS:

If they were to install -- if they had to put the rest of the fence up and they did it by hand, it really wouldn't be causing the kind of damage that they caused the first time around with machinery and the way that they knocked things down and went in there.

COMMISSIONER SCULLY:

That's true. The eight foot access road that Mr. Errico referenced is not on the County property, it's on the adjoining Eagle Realty property I believe because there's not -- some of the clearing that they did was offensive to us but I don't think we could describe any of that as an eight foot access road. We did at one point run a string along the proposed fence line that's set forth in the fence plan. Mr. Gibbons did that on our behalf and I went up and took a look, and even if they installed the fence by hand there are some small -- you know, there are some small pieces of vegetation that would have to come down and perhaps a tree, unless they amend the fence line somewhat. But I do agree with your assessment that if they went in and did it by hand there would be much less disruption than what was caused that first time around.

CHAIRPERSON FIELDS:

And wouldn't they have to go in and do it by hand knowing that it is a nature preserve; wouldn't we make them do it by hand?

COMMISSIONER SCULLY:

That would be the intention of my office, although our preference would be not to install any additional fencing at all.

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CHAIRPERSON FIELDS:

So then if the preference is not to install any and if they did insist that they were going to install it and it were installed by hand, it would be little or very little damage that would occur. But that doesn't change what has happened and the fact that we're not really completely -- weren't there differences in opinion of what the damage was and what it really was or what it wasn't?

COMMISSIONER SCULLY:

There were differences of opinion. And at the point in early 19 -- in early 2001 when Mr. Gibbons on our behalf went in and did what I feel is a hard look assessment, we were pretty satisfied that we had a good handle on it complete with photos and a good recommendation for remediation which, as you might imagine, wasn't particularly well received by Timber Ridge at Stony Brook. Nonetheless, the magnitude of a remediation effort and how much money they would be required to invest was something that we were attempting to negotiate in meetings

involving Legislator Fisher who's taken an interest in the matter at my office and the Division of Real Estate. It's just lingered, you know, it's just lingered far too long.

CHAIRPERSON FIELDS:

Let me just -- I guess I'm a little bit confused. If they went in to a nature preserve and did some damage, and there are some questions because we heard testimony at many meetings regarding how much damage was really done, and Legislator Fisher has put this resolution in to have someone who is independent come in and look at what the damage really is and recommend I guess what could be done to make it better or mitigate it, then what would be wrong in interviewing these three people for that purpose of really evaluating what it would cost to fix what has been done?

COMMISSIONER SCULLY:

I wasn't implying that there was anything wrong with it, I just wanted to provide a full background for the benefit of Legislators who were asking questions about the process.

LEG. LINDSAY:

It really doesn't have anything to do with these three people. I appreciate you coming down, but maybe the Commissioner could help and maybe to the committee. If we already did an environmental assessment in-house, what are we going to gain by hiring a consultant except additional cost?

CHAIRPERSON FIELDS:

Because apparently when this did happen, as we were both discussing, there, I thought, was testimony by some other people who had quite a bit of background and they said that they did not agree with the assessment that was done in-house.

LEG. LINDSAY:

Where are we going with it? Are we -- it seems the Commissioner is in negotiations with the builder that evidently did this damage.

COMMISSIONER SCULLY:

Could I clarify that? There's one factual point I need to make clear.

The issue that was in dispute was a survey that was performed for the Division of Real Estate, not the environmental assessment performed by my staff, that was not a subject of any dispute. The only time that

this was utilized was in discussions involving Legislator Fisher's Office, Mr. Eversoll and the Division of Real Estate. Nobody disputed the quality of the work that came out of the Parks Department on the issue. And in fact, our job was not to evaluate the scope of the damage but to make recommendations for remediation and that's what this piece of work does.

LEG. LINDSAY:

So there is no dispute about the environmental study done by your office?

COMMISSIONER SCULLY:

This is an evaluation of the environmental damage and recommendations

for remediation. What was in dispute was the extent of the clearing as it straddled the property lines between the two properties and the effort to make a determination as to what the real facts were was a survey that was performed. There was a presentation by the Director of Real Estate before the committee -- I believe this committee, or maybe it was ELAP -- on the survey and the dispute over the extent to which the fence was on County property or off County property or the extent to which clearing occurred on County property or off County property was about the survey and what it found. Because I believe if you check the record you'll find that the surveying company and the fence company both offered testimony saying they hadn't removed any trees and that sort of thing, and it was those issues that were in dispute, not the department's assessment of the damage and the recommendations for remediation.

LEG. LINDSAY:

Or whether the damage was on County property or their own property.

COMMISSIONER SCULLY:

And also the extent of the number of trees removed, those were the facts that were at issue.

LEG. LINDSAY:

Yeah, but where are we going with this? I mean, if somebody took down

a tree, I mean -- I don't know what the remediation -- if you're going to plant new trees are we going to sue the builder to do that if it's County property; where are we going?

COMMISSIONER SCULLY:

The builder has indicated a willingness to undertake some remediation. I have to be honest with you, though, our recommendations I think are a little bit more than he's willing to undertake unless there's some, you know, further negotiation and some real pressure. It's not the first or only situation where we have unfortunately some encroachment onto County parkland.

LEG. LINDSAY:

I mean, I don't know how much it would cost us to hire one of these three people, but are we spending more money than we're really talking about, I mean, to do an assessment and a potential lawsuit? I'm not

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saying to drop the issue but I'm just -- is it worth it is really what I'm getting at.

COMMISSIONER SCULLY:

I defer to the sponsor. You know, adroitly I will. But I think I can safely say that her introduction of the legislation is a reflection of her frustration that the matter had not come to a head and been resolved and I can understand that.

LEG. CARPENTER:

Just to pick up on where Legislator Lindsay was going, does us hiring a consultant mean that the developer is going to do any more than you get a sense that he's willing to do?

COMMISSIONER SCULLY:

I really can't answer that. I've spoken with Mr. Eversoll as recently as two weeks ago and said, "We really need to get an answer out of the Ward Melville Heritage Organization on this fence so we can decide what remediation you're going to undertake, because two weeks from

now

I'm going to be sitting in front of the Parks Committee with three environmental experts and the thing that's really holding us up here is the fence issue."

LEG. CARPENTER:

in

If everyone agrees that there has been some damage and you've gone

and done an environmental assessment, it seems to me that we tell the guy that he's got to do A, B and C and if he doesn't then he hears from the County Attorney's Office. I don't understand where hiring a consultant is going to make things any different or better.

COMMISSIONER SCULLY:

Well, again, I can't speak for Legislator Fisher. We have been working cooperatively and, again, I think that the fact that the bill is pending, the fact that it was introduced is just a reflection of her frustration that the matter hasn't moved forward. And, you know, let me be real clear about it, we could get an answer on whether or not we need to install that final piece of fence, clearing the way for negotiations with Mr. Eversoll and then find that we're unable to reach agreement on how much money he's going to have to invest in

that

remediation; that might well happen.

LEG. ALDEN:

Whose responsibility is it to install the last piece of fence?

COMMISSIONER SCULLY:

Timber Ridge at Stony Brook, that would be the corporation headed by Mr. Eversoll.

LEG. ALDEN:

And those are the ones that we purchased the property from?

COMMISSIONER SCULLY:

That's correct.

LEG. ALDEN:

Okay. So at this point they have a benefit in that they don't have to

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expend funds to put a fence up.

COMMISSIONER SCULLY:

They would have a benefit in the event that they're relieved of that obligation there would be financial benefit to them.

LEG. ALDEN:

Okay. And they're aware of the benefit, they're aware of the dollar amount. And therefore, when you presented what you wanted to see

as

far as remediation, all that would have been taken into consideration.

COMMISSIONER SCULLY:

The relationship between Timber Ridge at Stony Brook and Eagle Realty Ward Melville Heritage Organization is a contractual relationship. So to the extent that he has a contractual obligation to install the fence, whether or not they would require anything from him in return for relieving him is not something I could really comment on, but the potential is there. What I think you're saying, Legislator Alden, is if they are not obligated to install a fence, they would realize an economic benefit which could be used to fund or offset the cost of their remediation.

LEG. ALDEN:

Possibly, if that's the way we want to go with it. But I think at this point if we've already got an assessment so that that could possibly be used to establish damages, now it's just a matter of if the sponsor really wanted to change this, and that would be my

suggestion to her to go this route; change this from a resolution to pay more consultants to a resolution to compel the County Attorney or us to hire an attorney to bring an action against the sellers of the property. Because otherwise we're spinning our wheels by getting another assessment on top of the one we've already got and it's really not going to go in any direction and it's not going to really accomplish the goal that she wants to accomplish, she wants to see the work done. Right now we're in impasse, there's been a demand by the Suffolk County Department of Parks and the Commissioner to the sellers --

CHAIRPERSON FIELDS:

But I think there is -- I'm sorry to interrupt but I think that there is a -- Donald Eversoll has been told what our environmental assessment shows and possibly what it would cost to mitigate it, correct?

LEG. ALDEN:

Yeah, let him go get somebody. If we wants to come back with a counter proposal, let him go out and spend funds, expend funds to come

back with a counter proposal, otherwise if we go to court it's going to be his witness/our witness, our expert witness. So I really don't see why we should pay for a witness for him. And you know what he can

do? If he doesn't like our numbers the second time he can just do the same thing he's doing now and stonewall it.

COMMISSIONER SCULLY:

One of the things I was explaining to Legislator Alden -- and you were otherwise occupied, I want to make this very, very clear to you -- is

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that we're still awaiting a determination that we hope will relieve us of the obligation to install this last piece of fencing.

CHAIRPERSON FIELDS:

Right. Now, I knew that.

COMMISSIONER SCULLY:

That would be -- that would clear the way for us to get down to brass tax with Mr. Eversoll in terms of what remediation will be required there. But what I made clear to Cameron and I want to make clear to you is that assuming that we resolve the fence issue and then are cleared to negotiation with him, it's entirely possible that we'd get back to negotiating with him and then come to loggerheads, that could happen.

CHAIRPERSON FIELDS:

Oh.

COMMISSIONER SCULLY:

But we were negotiating and he was expressing a willingness to undertake some, the magnitude of it is the issue and we can only determine whether or not we're going to be able to resolve it once we get to the table with the guy.

CHAIRPERSON FIELDS:

Legislator Fisher's aide is here.

MS. ESSEL:

It was my belief --

CHAIRPERSON FIELDS:

You have to use the microphone.

MS. ESSEL:

It's my belief and recollection that the community was not pleased with the County's assessment of what needed to be done. When they went out there and they had their, you know, community people that are involved, that were involved in the purchase of Forsythe Meadows look through with their environmentalists, they said that they felt there was much more damage than what the County had said and I think that's what may have prompted it. And also, I think the idea that the negotiations were not going anywhere --

COMMISSIONER SCULLY:

If I could clarify one thing.

LEG. ALDEN:

Negotiations are one thing.

COMMISSIONER SCULLY:

Once again, let me clarify that Ms. Essel is again referring to the dispute over the quality of the survey obtained by the County which was supposed to be the bell weather or determining factor about the extent to which there was clearing and stuff on County property.

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CHAIRPERSON FIELDS:

When was that done, Peter?

COMMISSIONER SCULLY:

I'd have to check the record as to when Mr. Grecco addressed the

committee on it, that was handled by Real Estate. This document has not been shared with the community, Legislator fisher has it, we have it, we have used it as the basis of negotiations. So it is not this document prepared by my environmental analyst that is the source of any community concern, I just want to make that clear; that is not a source of community concern.

LEG. LINDSAY:

So what is -- excuse me. What is the source of community concern then?

COMMISSIONER SCULLY:

There is still a widespread belief that Timber Ridge at Stony Brook should be held responsible for some of the damage that occurred when they went into the property in August of 2000 to install a fence. It's for that reason that Legislator Fisher has been working with us to try and achieve those ends.

LEG. LINDSAY:

I'm confused. But isn't some of the damage on the builder's own property?

COMMISSIONER SCULLY:

Yeah, and we're not concerned with that. We're concerned only with the clearing or the tree removal or vegetation damage and the damage to the subsoils that occurred on the County's own property.

LEG. LINDSAY:

I guess we're not supposed to be talking about money, but is there a huge difference between what the builder's willing to spend to mitigate the situation and what we think needs to be spent?

COMMISSIONER SCULLY:

Negotiations are sometimes protracted and we were in the early stages, but I would say yes, there was a significant difference at that point in negotiation between what we believe would be required and what they were willing to spend.

MR. SEEMAN:

Madam Chair, may I offer a few comments as one of the technical people back here? You know, mitigation, planning and restoration ecology has been an evolving science and not all projects are successful and certainly evaluations on the success and failures of these projects are, as I said, subject to professional interpretation. I'm sure that if you sent all three of us out there we might come out with three separate mitigation plans; part of the success of those plans will depend on what we have left to work with. Whether a community or non

professionals might be looking at what was there and hoping to have that restored in its same ecological value or significance is sometimes unrealistic from a scientific or practical standpoint because you can't put it back. You can begin to set it up for a transition or a succession of plants to begin to overtake it. You can

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do some financial calculations on what it cost you for the acquisition of the land and if it's not at a threshold of some \$10,000 value on a per square foot basis, you can charge that damage back to those that did the violation.

I have been brought into sites that have been restored under ecological mitigation plans and asked to do an evaluation of its success and it's sometimes difficult to do because you're restoring it with wild plants which, by their nature, although you'll have them in a seed mix, that may be judged with a standard that you would use to judge the success of a landscaper putting in a lawn, and it really doesn't work that way in the natural environment.

I have not seen the ecological assessment that's been done, I don't know what mitigation plan anyone has, but I can certainly offer my insight. There was a question asked how much does it cost to bring in another expert to take a look at this a second time. My standard fee is a million dollars and it always takes me ten years to get the job done, but I would think that you could ask the other people here. It might be prudent to continue the dialogue with where you're going, the County certainly has qualified people to lay out the groundwork. But I think that if you put expert against expert, any one of us could go to the other team and argue the nuts and bolts of the mitigation planning; I do that, you know, all the time.

I'm working on a project along the Belt Parkway and I have to deal with U.S. Fish and Wildlife, New York City Parks, New York City DOT, all trying to get a consensus on what is first, the ecological value that was here, even historically because it's been disturbed by urbanization, and what do you want it to be and how practical is that.

The other question you might ask yourselves is at what ratio. Just to do a plan is sometimes not enough. Some agencies require -- for example, city parks -- a ratio of 18 to 1 for replacement of damaged areas. So consequently it's an evolving science. As I said before, there is no specific list that gives me the answer.

LEG. ALDEN:

Can I just stop you for one second; 18 to 1, you mean one part damaged, 18 --

MR. SEEMAN:
Eighteen replaced.

LEG. ALDEN:
-- replaced, okay.

MR. SEEMAN:
And what we're doing there is we're trying to -- I'm representing the city DOT who is rebuilding ten bridges along the Belt Parkway. The 18 to 1 ratio is becoming a requirement by City Parks who owns the right-of-way. There is not an 18 to 1 ratio available for a mitigation plan. As a staff consultant to a larger firm, we are trying to use HEP which is a U.S. Fish and Wildlife scientific approach, it stands for Habitat Evaluation Procedure to assign specific indicis to particular habitats in order to place a value on what habitat has or

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will be disturbed and try and build a consensus on the replacement or improvement of those habitats on a scientific rather than a simple ratio. Personally, I think it's a misapplication of the technique because it's usually for much larger parcels which is another problem that you have here. You have 39 acres but you're talking about a very -- again, without having seen it -- relatively small section of disturbance which might be most applicable if they haven't disturbed the canopy or the trees of significance with a marginal restoration technique. Thank you.

CHAIRPERSON FIELDS:
I have in front of me a bill, Resolution 1147, retaining technical consultant in connection with Forsythe Meadows property damage, and

it

says that, "The Commissioner of Parks is to forward a copy of the recommendation for retention of said technical consultant no later than 90 days subsequent to the effective date of this resolution," and it was signed by Bob Gaffney on November 20th of 2001, or it was -- yeah, it was at approved November -- dated November 20th, approved November 30th. So I guess that this bill is following that because this was not done; is that right?

COMMISSIONER SCULLY:
No. The resolution was enacted by the County Executive and I guess authorized, empowered and directed, as most resolutions do, my office to forward the name of a recommended environmental consultant to the Legislature for its consideration. I sat back with my staff and said, "Who on Earth would we recommend?" They were able to come up with three names, we put the three resumes together and I shipped them up to more Mr. Barton with a cover memo indicating that we were responding to the resolution. So if we erred by sending up three

names as opposed to one, I apologize. But as far as we know, our obligation was to submit the name of a qualified expert, nobody told us that we were supposed to submit request proposals, develop a scope of proposals, find out how much the project would cost or identify a source of funding, none of those things have been done.

MR. SABATINO:

I think everybody is really confused by this whole process, let me try just to go back to square one.

The community came in to the committee and to the full Legislature and expressed a concern that a Nature Preserve property that the County had acquired had been damaged. There was a dispute with regard to the people's view of the magnitude and the degree to which the damage had taken place. There was also a survey issued because there was a dispute about boundary lines. After all of that was discussed and debated back and forth, discussion was held about what were the options for the County. The options that were outlined were seek restoration or seek restitution or do nothing. Restoration would be some kind of a physical plan to restore the property, restitution would say you can't restore the property, try to get damages. The bottom line was the Law Department -- and I concurred with that assessment -- is that you can't go forward either for the restoration or restitution unless you've got the ability to independently assess and evaluate what the magnitude of the alleged environmental damage was.

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Arising out of that was the resolution that was just referred to. That resolution was adopted to start the process. That resolution was adopted at the end -- November 20th, whatever it was, in 2001, it was signed into law and it set up a process to have the Commissioner come forward with a recommendation for a consultant so the consultant could then be retained. So that issue about going to an outside independent consultant was resolved at the end of 2001. There was a consensus in the County, the Executive and the Legislature together, that that was the way to go forward because there would be no way to deal with either -- whether it was a lawsuit followed by negotiations or negotiations leading up to a lawsuit to make an intelligent assessment because you'd have to know what the magnitude of the damages were.

The Commissioner did his part, he followed the resolution. He actually went, I guess you could say, you know, beyond that, he came up with three names instead of one that basically gave the Legislature a choice. The bill was filed immediately thereafter. So there's been no delay at that end or at the Legislative end, but the bill has been

tabled every two weeks or three weeks in this committee because basically it's been represented that there was some ongoing dialogue or discussion, but we never got to the point of retaining the consultant, that's why the issue was here today. So, I mean, it could have been here -- it's been here for four or five months, it's just that we have never taken a vote because it's been a sense that something was happening. But at the last session Legislator Fisher happened to be here and she indicated that basically these discussions aren't going anywhere and that's why you're here. So I hope that just kind of gives the perspective.

The issue about having a consultant was decided in the year 2001, it's just these are the mechanics of who it's going to be if there's a desire to go forward with this restitution or restoration issue.

CHAIRPERSON FIELDS:

That's I think what I was just trying to say, is that this bill was already passed and that there should have been the retention of a consultant after this bill was passed.

LEG. ALDEN:

No, it says it only gets presented to us and we have to approve a consultant.

CHAIRPERSON FIELDS:

Or that --

MR. SABATINO:

And it was, and it was. The names -- I just want to -- this is not a question of fault or blame, but the issue was resolved in terms of going forward to try to --

CHAIRPERSON FIELDS:

It's progress that we're looking at.

MR. SABATINO:

Right. But the thing is the only reason that it's been tabled at this committee, though, for four months is because it's been represented

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that there were negotiations going on or that there was some discussion.

COMMISSIONER SCULLY:

I think Counsel's done a good job of recounting the process and I'll leave you to your work.

LEG. LINDSAY:

Could I say something, Madam Chairlady?

CHAIRPERSON FIELDS:
And what would that work be?

COMMISSIONER SCULLY:
I guess we're going to retain a consultant.

CHAIRPERSON FIELDS:
Yes.

LEG. LINDSAY:
What I was going to comment, if we keep talking about this maybe the undergrowth will grow back by itself, you know.

LEG. CARPENTER:
Two years worth of growth.

LEG. ALDEN:
You want to move the bill?

CHAIRPERSON FIELDS:
Yes, I will make a motion to approve.

LEG. ALDEN:
I'm going to make a motion to table.

LEG. CARPENTER:
Second.

CHAIRPERSON FIELDS:
Okay.

COMMISSIONER SCULLY:
If I'm not mistaken, the bill has a bunch of blanks in it, doesn't it?

CHAIRPERSON FIELDS:
Motion to table, second. All in favor? Opposed?
Tabled (VOTE: 5-0-0-0).

And maybe Legislator Fisher would like to come to the next meeting so that we can know what it is that she'd like us to do at this point.
Thank you.

MS. SCWANOF:
Could I mention something at the end here? Not fully understanding the complexity -- is this not on?

LEG. FOLEY:

It's on.

MS. SCWANOF:

The complexity of what's going on here, from what I'm hearing from the discussions here, the issue is really a twofold issue, not just one of ecological assessment of the images and coming up with required remediation, but it's really an identification and verification of where the damage occurred. And if the issue with the community is

how

big is that damage, then it sounds to me like there's really another step in this process to have an independent surveyor do a deed search and a verification on site of where that boundary actually falls to better determine the width and the area on the ground and maybe flag it out so that when you do conduct an ecological survey or assessment you're actually defining that strip better.

And the other thing I'd like to leave the group is that something to keep in mind in doing any kind of an assessment, the assessment has

to

really tackle two issues, direct impacts within the footprint of area of disturbance and also indirect impacts. If you take material trees out of the canopy away from adjacent area, then the community is

going

to perceive a much larger impact than what might have actually existed. Now, the other -- the flip side of it is is that ecological systems know no boundaries. You can do something on an adjacent property that is going to completely change the conditions on the park's property because that impact may be felt quite a distance in, maybe up to 80 feet or 100 feet in.

So I leave you with those two situations. They may or may not complicate the issue, but I think if any one of us here is going to approach this issue, we need to know exactly where the footprint of that survey line is.

CHAIRPERSON FIELDS:

Legislator Fisher's aide can bring that information back and I think that that's a point well taken, two points well taken.

MS. ESSEL:

Wouldn't the Parks Department define and know what property the County purchased?

COMMISSIONER SCULLY:

Once again, I will clarify for the record a third time. The survey for the property was handled by the Division of Real Estate and a

special survey was conducted in the wake of the incident to try and better determine those -- you know, the boundary and the extent of the disturbance. So we would know that the property boundaries in the area of disturbance only on the basis of that survey, we didn't have one performed because that's not within our purview.

MS. ESSEL:
(Inaudible).

COMMISSIONER SCULLY:
Yes, the Division of Real Estate has one available.

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CHAIRPERSON FIELDS:
Okay, thank you. The only other thing that we had is Suffolk County park fees. There were some difficulties with some of the -- thank you, all three of you, for coming.

MR. ERRICO:
Thank you.

CHAIRPERSON FIELDS:
We appreciate it. There have been some -- there have been discussions regarding some of the resolutions where other groups would like to use County parks for fund-raisers, and that in those resolutions the amounts of the usage fee vary, sometimes in large amounts and sometimes not. So the purpose today I guess of bringing that for discussion is to see if we can come together with Counsel and with the Parks Department and with the County Executive's Office to know that there are always set amounts that Legislators can put resolutions in for and outside parties can put in requests for resolutions so that we all know what's expected.

COMMISSIONER SCULLY:
Okay. Ms. Spezio is distributing a memo that we generated. I'm sorry that nobody was present at the General Meeting to provide the information that you needed. Unless there is an error in an authorizing resolution, the fees should be reflective of the parks fee schedule which ties fees for special group events to the number of people participating in that event. Those fees are established by resolution of the Legislature and I attached to the memo the resolution from 2001 which amended certain of the fees, including the special group event fee which is the one that's applied for fund-raising events. So I'm sorry that nobody was present to clarify.

If we're misunderstanding what the concern is, I'd we happy to get whatever information is available. But the group event fees are tied to the number of people participating based on the -- and have been

historically based on the logic that the more people who are involved the greater the impact to the park, the more work ethic it takes to prepare for the event, the more effort it takes to clean-up afterwards, the more flushes in the bathroom, all that sort of thing. So that's the kind of rationale that the County has used and the department has used to justify an approach that says the more people involved the higher the fee. And if a resolution doesn't reflect what's in the fee schedule, it should.

CHAIRPERSON FIELDS:

Do we always know, when a group would like to use one of the parks, how many people are actually going to come though?

COMMISSIONER SCULLY:

When they apply for a permit we ask them for their best estimate.

CHAIRPERSON FIELDS:

So it's their decision or their guesstimate, I guess. Legislator Carpenter, do you have a question?

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LEG. CARPENTER:

Yeah, I -- we had four resolutions, I guess it was, that had varying amounts from 150 to 350 and I guess the question was raised why the difference because in one instance it was the same park and no one actually had that answer and this memo certainly explains it all. But when you go to the issue of numbers of people attending and the group comes and they say, "I want to rent Southaven Park," and you say, "Well, how many people," and they say 130, so that would put them at \$75. The day of the event comes and they may have 270; who's to know?

Do we monitor that?

COMMISSIONER SCULLY:

The Parks Supervisors have available the documentation backing up a permit, they need to because sometimes we need to make special arrangements for groups in terms of equipment, so they have that information available to them. And I certainly hope, and unless I'm told otherwise by people who can site an instance, that they track that and if there's a -- obviously if there's a group that's permanent at 75 and there's 85 or 90 people there, the likelihood that they're going to pick that up is less than if the group is permanent at 75 and there's 150 or 200, but I would hope that they're all over those things.

LEG. CARPENTER:

Does the application that the group fills out say something that we understand that you're giving us an estimate but -- almost kind of

letting people think that they may have to verify it, that they're expected to be as honest as they can be in estimating the amount of people that are going to be attending?

COMMISSIONER SCULLY:

I don't know for sure but I will find out for you right away.

LEG. CARPENTER:

Because I think that's a way of, you know, preparing it so that people would be less likely to really underestimate if they know that they're going to be monitored.

COMMISSIONER SCULLY:

I appreciate your concern. And I think that for groups and folks that are holding a one time event it's less likely that they'll try to beat the system. But let's face it, no matter what system you have in place to regulate anything, people are always trying to find a way to evade it. So your point's well taken.

LEG. CARPENTER:

Thank you.

CHAIRPERSON FIELDS:

Okay? Thank you.

COMMISSIONER SCULLY:

You're welcome. I'm sorry that you had to wait for the information. If somebody was at -- if we were at the General Meeting we would have been able to solve that issue for you.

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CHAIRPERSON FIELDS:

We're going to -- if you want to stay there maybe, we're going to go right to the agenda.

TABLED RESOLUTIONS

IR 1276 we've already addressed.

IR 1337 -02 (P) - Amending the 2002 Capital Budget and Program and appropriating funds in connection with the restoration of Smith Point County Park (County Executive).

LEG. FOLEY:

Motion to table.

CHAIRPERSON FIELDS:

Motion to table, I'll second the motion. All in favor? Opposed?

Tabled (VOTE: 5-0-0-0).

1397-02 (P) - To establish Community and Youth Services Program at Sheep Pasture Road in Port Jefferson/Setauket, New York (Fisher).

COMMISSIONER SCULLY:

We're still awaiting SEQRA on that. We have been working closely with Legislator Fisher's office to get an EAF completed and filed with CEQ. We have a meeting with Mr. Bagg at Legislator Fisher's office, so we need to table that another cycle.

LEG. CARPENTER:

Motion to table.

CHAIRPERSON FIELDS:

Second the motion. All in favor? Opposed? Tabled (VOTE: 5-0-0-0).

1543-02 (P) - Amending the 2002 Capital Budget and Program and appropriating funds for resurfacing of Smith Point County Park (Towle).

LEG. FOLEY:

Motion to table.

CHAIRPERSON FIELDS:

Motion to table, I'll second the motion. All in favor? Opposed? Tabled (VOTE: 5-0-0-0).

1644-02 (P) - A Local Law to establish Code of Conduct for sports and recreational activities on Suffolk County property (Fields). Motion to table.

LEG. ALDEN:

Second.

CHAIRPERSON FIELDS:

All in favor? Opposed? Tabled (VOTE: 5-0-0-0).

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INTRODUCTORY RESOLUTIONS

1924-02 (P) - Reappointing a member of the Suffolk County Board of Trustees of Parks, Recreation and Conservation (Richard Hilary) (Caracciolo). Richard Hilary could not be here today so I'll make a motion to table.

LEG. FOLEY:

Second.

CHAIRPERSON FIELDS:
All in favor? Opposed? Tabled.

LEG. ALDEN:
Opposed.

CHAIRPERSON FIELDS:
Opposed to tabling. Tabled (VOTE: 4-1-0-0 Opposed: Legislator Alden).

IR 1953-02 (P) - Adopting Local Law 2002, Authorizing County
Department of Parks, Recreation and Conservation to construct dog
runs
at Coindre Hall in Huntington and within County Parks (Cooper).

LEG. FOLEY:
Motion to table subject to public hearing.

CHAIRPERSON FIELDS:
I'll second the motion. All in favor? Opposed?
Tabled (VOTE: 5-0-0-0).

LEG. CARPENTER:
On the motion, I just have a question. I thought there was a dog run
at Coindre Hall.

COMMISSIONER SCULLY:
There is a unfenced off-leash dog recreation area that was authorized
by my predecessor on a pilot basis in I believe in 1997. Legislator
Cooper's resolution would authorize a fenced area at that same park.
He has obtained a commitment from the Town of Huntington to provide
the fencing.

LEG. CARPENTER:
And it says here Huntington and within Suffolk County Parks, so does
that mean that we're going to be seeing dog runs in all the parks or
just at Coindre Hall?

COMMISSIONER SCULLY:
The resolution as drafted does several things. It really would amend
the parks rules and regulations to bring them into conformance with
longstanding departmental practice as it relates to dogs on leashes.
It authorizes a dog run at Coindre Hall and it also gives us the
authority to create dog runs at other parks at the discretion of the
Commissioner.

To respond directly to your question, I don't think that as a general rule we consider that all parks are suitable places for dog runs, so I don't think you would expect a proliferation of them.

LEG. CARPENTER:

However, if the resolution has been drafted that would allow dog runs to be installed at the discretion of the Commissioner, it is possible that we would in fact find dog runs at other parks and it would not come back to the Legislature. Because I for one would not be particularly supportive, from comments I have gotten from the people that I represent in the area, to have a dog run at Gardiner Park. And I'm afraid that, you know, if this were to be approved that it would allow for that -- you know, the possibility for it to happen. And I would just ask the sponsor then, and I'll try to remember to contact him, if not I will say something Tuesday anyway because it's going to be a hearing, but I think that as the sponsor of the resolution he -- you know, Coindre Hall is in his district and if he would like a dog run in that park that it should be specific to that Legislative District and not to all the parks.

CHAIRPERSON FIELDS:

But I think one of the problems is that right now in our Charter it is illegal for dogs to be in parks.

COMMISSIONER SCULLY:

Just to the point that Legislator Fisher -- I'm sorry, Legislator Fields, excuse me -- is raising is the fact that parks rules and regulations which were enacted by the Legislature in 1979 are contained in the Administrative Code. And under the Section 378-4, Prohibited Acts, there's an explicit prohibition on animals in County parks. Other than dogs on leash in two prescribed areas, outer beach areas and the area of vicinity of campgrounds. Now, the department's practice for more than 30 years has been to allow dogs on leash in most parks, so the rules and regulations and the practices have not been in conformance. So one of the things that this resolution does, and I want to thank Legislator Cooper's office and Legislative Counsel, in addition to addressing his desire to authorize the dog run at Coindre Hall, it also addresses this need to bring the department's longstanding practice and the rules and regs into conformity.

LEG. CARPENTER:

Well, I can appreciate that and I certainly can support that. And I know that dogs are permitted in Gardiner Park and the signs are up about them, you know, being on a leash and so forth. And again, as far as the dog run is concerned, however, I think that that is something that, you know, should be, you know, park specific and not given a blanket permission to have dog runs in all the parks.

CHAIRPERSON FIELDS:

I would also ask that if -- I don't know where this is going to go,

obviously; going to the dogs, no. But one of the considerations after working for seven years with the South Shore Estuary Reserve is that one of the main pollutants is dog feces or dog and cat feces, that when dogs go to the bathroom and it rains it gets washed into the bays and into the estuaries. And Legislator Cooper showed me an aerial photo of Coindre Hall the other day and it's a hilly area had and it's

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also located right near the water. So in order -- let's just say that this goes forward and it's approved, I would ask that we do a SEQRA review of any park that we are allowing dogs to use and have and deliberately at that point adding to non-point source solution right into the bays, that's not something that we should be agreeing to do. And if there is going to be a dog run at any park, then we have to look at that ecologically, environmentally and every, way, shape or form to move it to the furthest point away from the water and not on a hilly -- in a hilly park.

COMMISSIONER SCULLY:

Now, I assume that the bill is going to be subject -- needs to go to CEQ and that some of those issues will be addressed. The only other thing I want the members of the committee to know is that we have been receiving a lot of e-mails from the Huntington Dog Owner's Association.

LEG. CARPENTER:

So have we.

COMMISSIONER SCULLY:

And many of them reflect somebody's belief that there's a proposal on the table to ban dogs in all County parks; there's no such proposal on the table. And the unfortunate part about that obviously is that there's likely to be some healthy debate on this issue anyway on the merits of whether or not we should authorize dog runs. By leading people to believe that there's a proposal on the table to ban dogs outright in all County parks, obviously you're going to generate a substantial amount of interest from people who believe that ability to walk a dog is going to be prohibited if you don't act. And trying to clarify that I think is something that's going to be inherently difficult, people get very emotional about these issues. But I wanted you to know that some people believe we actually are proposing to ban all dogs in County parks; that is not the case, there's no proposal on the table to do that.

LEG. LINDSAY:

May I?

CHAIRPERSON FIELDS:

Yes.

LEG. LINDSAY:

Isn't that what the regulations say now that we don't enforce?

CHAIRPERSON FIELDS:

It is illegal.

COMMISSIONER SCULLY:

What the regulations say is that dogs on leash are allowed on outer beach areas and in the vicinity of campgrounds, that's what they say.

LEG. LINDSAY:

Which account for what, about 10% of our parkland?

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COMMISSIONER SCULLY:

I couldn't give you a percentage but it's a very small percent, it might be less than 10%. But the longstanding practice of the department and literature that's been in print since the 1980's reflects that we have -- we offer people, you know, pets are welcome, here's what you need to do about it. So it was unbelievable to me, having cracked the Administrative Code, to identify what this flaw or this inconsistency, but I do believe I had an obligation to try and bring it up and resolve it.

CHAIRPERSON FIELDS:

Legislator Alden.

LEG. ALDEN:

I think that Legislator Lindsay, to just go a little bit further on what the Commissioner was saying before. I have had the opportunity to speak to a lot of people who have called, and that's probably in the 25 range out of the hundred or so calls that I got and out of the hundred or so e-mails that I've gotten, I had some dialogue with those people; they are misinformed. They think there's new regulation or some kind of new law that is actually proposed that would ban dogs in County parks, so to clear that up is going to be a very hard thing to do. But I hope at the meeting when we do have this public hearing that maybe one of us or some of us can make that point, that there is no new resolution coming forward that would ban dogs from any County parks.

LEG. LINDSAY:

Because they're banned already.

LEG. ALDEN:

Exactly.

LEG. LINDSAY:

That we don't enforce.

LEG. ALDEN:

Exactly right.

COMMISSIONER SCULLY:

I will attempt to help you navigate your way through that thicket. I mean, I think what you're going to find, in addition to the misinformation regarding your proposal, is I've gotten some e-mails copied to me that went to the County's website saying one thing and doing another on the issue.

LEG. ALDEN:

Some of these people are angry, though, and they're angry at us for thinking about, you know, taking them and their dogs out of County parks. So we've got to clarify some of that.

CHAIRPERSON FIELDS:

This will be similar to light banning I think when we have the public hearing. Okay, so we tabled that and --

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LEG. ALDEN:

For a public hearing.

CHAIRPERSON FIELDS:

Right. The public hearing is going to be Tuesday.

IR 1955-02 we have already done.

IR 1956 we've already done.

IR 1982-02 (P) - Adopting Local Law No. 2002, a Local Law to strengthen enforcement penalties for all terrain vehicles (ATV's) (Caracciolo).

LEG. ALDEN:

I think that needs a public hearing; is that correct, Paul?

MR. SABATINO:

Yes.

LEG. ALDEN:

Motion to table for a public hearing.

LEG. CARPENTER:
Second.

CHAIRPERSON FIELDS:
All in favor? Opposed? Tabled (VOTE: 5-0-0-0).

IR 1985-02 - Authorizing, empowering and directing County Parks Department RFP process to reopen Trap & Skeet Shooting Range for recreational gun owners near Southaven Park in Yaphank, Town of Brookhaven (Fields). I will make a motion to approve.

LEG. CARPENTER:
Second.

CHAIRPERSON FIELDS:
All in favor? Opposed? Approved (VOTE: 5-0-0-0).

IR 1988-02 - Approving the appointment of Judith Gordon as the Commissioner of Suffolk County Department of Parks, Recreation and Conservation (County Executive).

LEG. ALDEN:
And removing that guy Scully. I just have one question on this and I guess it's a legal question. Paul, if we approve this and there's no opening, what's the legal ramification of that?

MS. GORDON:
Then you can give me a raise.

MR. SABATINO:
We have an opening in Budget Review.

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LEG. ALDEN:
Okay. Can we just structure this, one or the other then, whichever becomes available.

MR. SABATINO:
Budget Review, it works; I already thought of that.

MS. GORDON:
I know, I feel a little tentative about this but I suppose we have to go through the process. I would just like to make a couple of comments and then -- does everybody have a copy of my resume, by the way?

CHAIRPERSON FIELDS:

No.

MS. GORDON:
Okay.

CHAIRPERSON FIELDS:
Mary will get it from you.

MS. GORDON:
I have to tell you that I am both humbled and honored --

CHAIRPERSON FIELDS:
Just move it a little bit closer so that we have you on record.

MS. GORDON:
I have a really big mouth, Ginny.

CHAIRPERSON FIELDS:
No, you don't.

MS. GORDON:
I am both humbled and honored to be in front of you today to be considered for this position. It kind of took me by surprise, but as I say, I am extremely humbled.

The County Parks Department has probably got the most dedicated staff that I've ever worked with. And I have an incredible amount of respect for the work that the people in that department do and I would be extremely proud to lead the department. I also look at public service as a privilege that I take incredibly seriously. I would like to just talk a little bit about what I may do in the future, I'm sure you might have questions, or some of the things not necessarily what I might do but what would be important to me.

I would like to continue with our Land Management Program which we're

probably in somewhat of the early stages. There had been some effort in previous years but as you all know, we've been accumulating an incredible amount of parkland for which we really don't have any management plans, that would be something that I would like to focus on. I would like to preserve and protect the historic structures and landmarks in the County which is one of the many treasures that we have in the County Park System. I want to ensure that our active

parks are clean and safe. And I'd like to just talk to you a little bit about my experience, what I would bring to the table.

I have 25 years, almost 25 years of management experience with municipal parks. And I think, I believe I'm the only person to be considered for this position who's actually got a degree in the field which I can tell you will make my colleagues in New York State who are in the same position as I am, having a degree in the field really proud of me I think also. I've got six-and-a-half years of experience with County parks, so I'm coming to the table with some experience

and

some knowledge of the position. I know that it's a large responsibility, I'm probably not up to speed on all of the issues that the Commissioner's office has got on the table but I assure you that I am getting up to speed and will continue to do so. I think I have a good ability to work with all levels of government, to work with various community groups and not non-profits.

And I would just like to say in closing that Peter Scully and I go back many years. Although we didn't work in the same office we worked

together in the Town of Brookhaven, and it's been a pleasure to work with him in his position as Commissioner of Parks for the last two-and-a-half years. I have really enjoyed the experience and I look forward to the role that he would play in the County Executive's Office and continuing to work very closely with him.

CHAIRPERSON FIELDS:

I have one question and then Legislator Alden has another. We have 42,000 acres of parks and we have early incentive retirement where we've lost how many positions in the park?

MS. GORDON:

Eleven.

CHAIRPERSON FIELDS:

Eleven. How do you propose to address that problem? Number one, I think one of the biggest problems that we have, and there certainly are many, is that there is a law that asks that the County provide one Parks Police Officer for every 500 acres, and we certainly don't have nearly that amount now and we have ATV damage and other damage that --

or at least the inability to preserve what we already have. How do you feel that you can try to address that?

MS. GORDON:

In the near term, I don't have any good answers for you. I look forward to the committee that's going to be working on the alternative funding, I look forward to that process and I think that that eventually can help us to some extent in that area. But I can tell you that I will try to reach out to community groups, I will try to reach out to other municipalities where we have similar, either adjacent lands or similar situations to perhaps maybe we can work

together in order to address that situation.

CHAIRPERSON FIELDS:

Thank you.

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LEG. ALDEN:

I just want to touch on one thing that you did mention and that's Legislator Fields has the Alternative Funding bill.

MS. GORDON:

Uh-huh.

LEG. ALDEN:

Do you feel you can come up to speed real quick on that and that there's not going to be a lag time in --

MS. GORDON:

Yes, I feel very confident about that.

LEG. ALDEN:

Great, because that's really something that a lot of us are actually looking forward to.

MS. GORDON:

And I've been involved in it to some extent, that's one of the issues that I have been involved in to some extent, so I don't need a lot to bring me up to speed on that.

LEG. ALDEN:

Great. The only thing I would say about -- because there really isn't a current vacancy, if we approve it out of this committee it's just with the, I guess, provision that if no vacancy occurs because of another appointment that might or might not take place, that we would probably table it on the floor of the Legislature.

MR. SABATINO:

Yes, that would be the legal option. The other thing too is these are not fixed terms of office from a legal perspective, that's not the problem. What would be a legal impediment if you appointed somebody

to

a fixed term and then something else didn't materialize, that would be problematical, but even that can be worked out with resignations. But the answer is you can table it.

LEG. ALDEN:

Yeah, because I don't want to insult the current Commissioner and actually remove him from office or anything. Good. So I'll make a

motion to approve.

CHAIRPERSON FIELDS:
Did you have something to say?

LEG. LINDSAY:
No, that's fine, he -- I was going to ask the same question.

CHAIRPERSON FIELDS:
I will second the motion and also say that as Parks Chairperson I've had many opportunities to work with Judy and speak to Judy on different issues and have found nothing but favorable response and knowledge of our parks and the programs to be very efficient and worldly of our County. Thank you.

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MS. GORDON:
Thank you.

CHAIRPERSON FIELDS:
So we have a motion --

LEG. CARPENTER:
Madam chair?

CHAIRPERSON FIELDS:
-- to approve, we have a second.

LEG. CARPENTER:
Second, and if I could, just on the motion. I want to say how impressive your resume is and it is really refreshing to have a potential nominee in front of us who is eminently qualified. And again, I just hope that things work well with everything else that has to fall into place, you know, echoing what Legislator Alden said because that would be unfortunate. But with that said, I guess I will be proud to second the nomination.

CHAIRPERSON FIELDS:
Okay. All in favor? Opposed? Approved (VOTE: 5-0-0-0). And we look forward to seeing what happens on Tuesday.

MS. GORDON:
Thanks very much.

CHAIRPERSON FIELDS:
Thank you.

LEG. FISHER:

Madam Chair, before you adjourn, if I could just say something on the record regarding IR 1276 which I understand was tabled.

CHAIRPERSON FIELDS:

Yes.

LEG. FISHER:

And I did want to ask the Commissioner some questions regarding that.

This is a subsequent resolution to one that has already been passed which is calling for a technical consultant in connection with Forsythe Meadows property damage. I don't believe that Legislator Lindsay was on board when the damage occurred to these County parklands, however it was quite contentious, it was a very disturbing set of events that occurred in our community. There has been an evaluation done by Mr. Gibbons, I know that the Commissioner has put that on the record. However, Klein and Eversoll have not accepted the recommendations of Mr. Gibbons with regards to the extent of the damage. And I believe Klein and Eversoll may have offered a paltry \$1,000 to remediate the damage that was done. And because of that, I forwarded the resolution because we needed a third party to evaluate the damage.

The damage that was done in putting up this fence is considerable, there was damage to the understory, there was damage to trees, there

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was damage to habitat of the farnar that live in that forest. And so I really do take great exception to the Commissioner's assertion that the community isn't concerned about this, if that is in fact what --

COMMISSIONER SCULLY:

I never made any such assertion, Legislator Fisher. I never made any such assertion.

LEG. FISHER:

Okay.

LEG. CARPENTER:

He never said that.

LEG. FISHER:

So why was it tabled?

COMMISSIONER SCULLY:

First let me say to the extent that I took issue with any of the comments that were made, Nannette was apparently confused between the

survey that was performed by the Division of Real Estate and the issues that arose from the explanation of that survey and the assessment of the damage by Nick Gibbons and his recommendations. I never implied that the community was in an uproar because, as you well know, I live there along with you and I'm well aware of the sensitivity of the situation.

I did express in committee that you and I had been attempting to negotiate cooperatively with Klein and Eversoll for remediation. I did indicate that the dollar amounts on the table were far -- there was a great disparity, although I was not party to any negotiation in which they offered a thousand dollars, I don't want to negotiate here on the record, but --

LEG. FISHER:

Well, actually there was a letter that was sent to you and copied to me by Klein and Eversoll.

COMMISSIONER SCULLY:

The only offer I saw was multiples of that but far short of what Mr. Gibbons felt would be required. So I didn't -- at no point did I dispute any assertion that there was community uproar over it. My only concern was making clear that the community hadn't picked apart Nick Gibbons' assessment and recommendations because we didn't make that a public document. What the concern was a presentation by Mr. Grecco regarding the survey, if you'll recall.

LEG. FISHER:

Well, certainly the community has not been made privy to Mr. Gibbons recommendations. My concern here is with the remediation, the amount of remediation and that Klein and Eversoll really hasn't taken seriously the recommendations by Mr. Gibbons and this is what precipitated putting in a resolution to having a third party, a consultant do the evaluation and assessment so that they would have to remediate at the level which we see is important.

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COMMISSIONER SCULLY:

I'm judging by the tone of your comments that you seem to think that I was contesting the validity of the resolution; that wasn't the case, I'm pleased to report to you. That's a policy decision for the Legislature to make and I think as Counsel aptly indicated on the record, the process has moved forward to the extent that you're in a position now to actually select one. I wasn't -- I never suggested that it wasn't necessary, all I sought to do was to provide for the record clarification of what the process has been. So to the extent

that representations may have been made to you by staff that I in some way tried to stop the resolution from moving forward or indicated that the community wasn't upset, I'm pleased to report for you on the record I did neither of those things.

LEG. FISHER:

Okay, I encourage the committee to please move forward with this. Although the consultants I don't believe have been given enough information for them to move forward in order to provide us with the kind of work that they're able to do. So I hope that the Parks Department will work with the consultants who have come forward to do the work.

LEG. CARPENTER:

May I just say something? I was here through the discussion and I think the comment that was made was that the community could -- I think your aide made the statement or someone made the statement that the community was not in agreement with the assessment that was made and the Commissioner was trying to set the record straight that the community was not upset with any work that was done by the Parks Department's --

LEG. FISHER:

By Mr. Gibbons', yes, he's made that clear.

LEG. CARPENTER:

-- assessment. Okay? And there were some of us, I know Legislator Alden had to leave, that felt why would we be spending money on a consultant to come in and look at the situation because the parties involved are only going to disagree; if they don't agree now they're only going to disagree with the assessment of the consultants and say, "Well, I don't agree." The damage is a lot less --

LEG. FISHER:

Although the consultant is a third party to this and not someone who is on staff working for the County.

LEG. CARPENTER:

Yeah but they're not going to agree, they're going to say that that -- you know, that they don't agree with that consultant and then we've put money out for no good. It seems to me that the County Attorney's Office should be directed to go after -- if we've determined that there's damage, have --

LEG. FISHER:

Actually the Trustees have asked the County Attorney's Office to go after Klein and Eversoll to remediate and the County Attorney's Office

just hasn't moved expeditiously on it.

LEG. CARPENTER:

Well, maybe that's where you need to direct your efforts in the form of a resolution if necessary rather than us hiring a consultant. And the man sat here and said it could be a million dollars.

LEG. FISHER:

A million dollars for remediation.

LEG. LINDSAY:

No, for his fee.

LEG. CARPENTER:

For his fee. So I think maybe --

LEG. LINDSAY:

A million dollars for ten years.

LEG. FISHER:

Oh, that's interesting.

LEG. CARPENTER:

Okay? So with that kind of information coming from someone, you can understand why we would be a little reticent to go forward with selecting a consultant. If there is an opportunity for us to go after whoever has been alleged to have caused the damage, we've got, you know, certainly attorneys sitting in the County Attorney's Office that could go after them.

CHAIRPERSON FIELDS:

That was the reason that it was tabled.

LEG. FISHER:

Thank you.

CHAIRPERSON FIELDS:

There was concern about spending money that we think we can do in-house possibly with our County Attorney's if we can get them to act on this.

LEG. FISHER:

If we can get the County Attorneys to use what Mr. Gibbons has done.

CHAIRPERSON FIELDS:

So maybe then what I would ask is for our present up to the moment

Commissioner and our future potential Commissioner to make a phone call to the County Attorney's Office and ask them to act on this ASAP, before the next meeting.

COMMISSIONER SCULLY:

I think what I'd like to do for the benefit of the committee is go back and see whether or not there isn't any series of correspondence between offices of the County government with regard to the County Attorney's assessment of whether or not the situation is actionable or not. I don't recall specifically but it seems to me that there is a

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written inquiry from somebody in the County Attorney's Office about the matter kind of pushing and demanding and a response thereto. I will -- give me an opportunity to get that material to you so we can all take a harder look at what exactly it is what they've already said, whether or not they've taken a position that there's nothing for them to do in this instance; I don't recall.

CHAIRPERSON FIELDS:

Okay. So then by the next meeting perhaps somebody can get a response to me before the next meeting. And if not, then maybe I will invite the County Attorney's Office to the next meeting and let them answer the committee.

COMMISSIONER SCULLY:

I will pull the file tomorrow and assemble the documentation.

CHAIRPERSON FIELDS:

Thank you.

LEG. FISHER:

And Madam Chair, I'd appreciate your communication on that and whatever you receive.

CHAIRPERSON FIELDS:

Absolutely.

LEG. FISHER:

Thank you.

CHAIRPERSON FIELDS:

I will make a motion to adjourn, unless there's --

LEG. LINDSAY:

Before we adjourn, before we adjourn. I would just like to say on behalf of myself and I'm sure from the rest of the committee what a

wonderful job Peter Scully has done in Parks.

LEG. CARPENTER:
Absolutely.

LEG. LINDSAY:
And I would like that on the record. In my short tenure, I think you've done a wonderful job.

CHAIRPERSON FIELDS:
And as Chairman for Parks, I have had nothing but the ultimate respect for his quick learning of the job when he came in and had to suddenly take on the Parks Department and his responses that are generally immediate to problems or concerns and ways in which to solve them
and
has made my job much easier and it's been a real pleasure.

LEG. CARPENTER:
If I could. I think we all share the same sentiment. And what I would just like to add, I think in your -- if things all work out as they seem to have been planned and look like they are going to work

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out, that in your new expanded roll that you will be in an even better position to advocate for the Parks in Suffolk County.

CHAIRPERSON FIELDS:
Well said.

LEG. FOLEY:
Madam Chair, I would also like to echo the common thoughts of our affection for and great respect for the Commissioner. You have done a wonderful job, you've put the department in the right direction. There's going to be challenges for the upcoming Commissioner with regards to loss of some personnel, but perhaps -- well, we're not getting ahead of ourselves by not knowing what we're going to do on Tuesday but if certain things happen on Tuesday and other Commissioners move forward to other positions and then that opens up other positions within the administration, I guess then this will be the last committee meeting where Mr . Scully will be Commissioner of Parks.

So again, I also would like to thank you on behalf of not just myself and but our constituents for the fine work that you've done so that our constituents can enjoy in some respects some of the only green space that some of our constituents have in the given neighborhoods that they live in. So I want to thank you for a job well done.

CHAIRPERSON FIELDS:
Almost sounds like a eulogy.

COMMISSIONER SCULLY:
If you just indulge me for thirty seconds, I just wanted to make sure each of you understand that the decision to take on the challenge that I may be taking on is not one that was made lightly and not one that I've second guessed repeatedly, I love the job very much. I think that the big picture is that the County really has done an unbelievable job of investing in the future in terms of protecting land and its resources but it hasn't really comes to grips yet with what it means to be the largest landowner in the County and that's something we're really going to need to come to grips with over the next few years.

I'm particularly proud of the fact that when I was appointed people were complaining about the condition of the County's golf courses and the general consensus is today that they're in the best shape that they've ever been in. I'm particularly proud that we have our new Internet Reservation System up and we're starting to take a long term view of the County Park's Department.

I do want to thank each and every member of committee because my relationship with the Legislature has been nothing short of wonderful. The County Executive has been supportive. But when you become a Commissioner, given what you hear about the Suffolk County Legislature, you're not sure what to expect, I have had nothing but a good relationship with each and every Legislator and have tried to do the best I could in the individual districts, whether it be working with you on Gardiner Park or trying to get the NYCON thing moving forward or installing the bridge finally at Swan Lake which Legislator

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Foley had been waiting for. So I really appreciate the support that I've gotten out of the Legislators and I'm hopeful that I can maintain that type of relationship with each of you when I get to the County Executive's Office. I certainly will attempt to do that, to treat everybody with respect and be frank with them about the challenges that we face together. And I spoke briefly with Legislator Lindsay prior to the meeting and, you know, it's clear that counties across the state are facing some unprecedented challenges in the years ahead and it's going to be a difficult period, but I'll do the best I can.

LEG. FOLEY:
Let's just hope that other future Commissioners of other departments will follow your example in how you've conducted yourself with this department.

COMMISSIONER SCULLY:
I'm going to miss it. Thanks very much.

LEG. CARPENTER:
Thank you.

CHAIRPERSON FIELDS:
Thank you.

(*The meeting was adjourned at 3:36 P.M.*)

Legislator Ginny Fields, Chairperson
Parks, Sports & Cultural Affairs Committee

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